THE

CASE and APPEAL

OF

JOHN HUDSON,

One of the OFFICERS of His Majesty's Revenue of Excise:

Who was tried at the Old Bailey, in *December*, 1779, upon a Charge of commiting a Robbery in the Shop of Robert Davis, Grocer, (No. 164) in *Fenchurch-Street*.

TO WHICH IS ADDED

The Whole of the Trial as it was taken in Short Hand, and publiſhed by Authority, with Notes and Observations thereon; meriting not only the Notice of the Public in General, but the moſt Serious Attention of every Officer of His Majeſty's Revenue.

"*Magnes Mendacii Credulitas.*"

Credulity is the Adamant of Lies.

LONDON:

Printed for the Appellant, in the Year M.DCC.LXXXI.

[Price One Shilling and Sixpence.]

ERRATA.

Page 9, Line 7 *and* 8 *from the bottom, inſtead of* admiting it to have exiſted, and to have been in their poſſeſſion at the time, *read* admiting it to have been in their poſſeſſion at the time.

p. 13, *inſtead of the firſt paragraph as it now ſtands, read* Mr. Lloyd alſo ſwears, that *he* received the bank note that very day from Mrs. Lawrence, and that it was left with him to pay for ſome things which Mrs. Lawrence bought of other people.—*And in the next paragraph, on the ſame page, immediately after the word* play, l. 3, *read* and that ſhe gave it to her huſband, and he put it into the till, from whence, it is alledged, the appellant took it.

p. 16, l. 13 *from the bottom, read* might *inſtead of* would.

p. 22, l. 5 *and* 6, *in note (a), inſtead of the words* that if any ſuch note did exiſt, and was then in their poſſeſſion, *read* that if any ſuch note was then in their poſſeſſion.—*And immediately after the word* it, *at the end of the ſaid note as it now ſtands, read* the real property being in Mrs. Lawrence, the qualified property in her truſtee Lloyd.

p. 29, *in the bottom line of note (k), read* very firſt ceremony, *inſtead of* firſt ceremony.

p. 32, l. 8 *of note (k) from the top, inſtead of the words that now follow the word* manner, *read* [illegible] does not only ſwear ſhe did not ſee him make any uſe of it, *but alſo* that he ſaid nothing, only uſed ſome ill language to her huſband.—*And in the laſt line of the note, in the ſame page, directly after the word* act, *read* immediately ſucceeded.

p. 47, l. 4 *of note (v), read* reader, *inſtead of* public.

p. 50, *read* l. 3 *of the priſoner's defence thus,* behold one, even the moſt innocent, more ſo than.

p. 63, l. 6, *from the top of the note, inſtead of* that he had many unjuſt things of that kind, *read* that he had done many unjuſt things of that kind.—*And in* l. 17 *of the ſaid page, immediately after the word* infamous, *read* (which comprehends every thing that is bad).

TO THE

READER.

THIS Appeal, &c. was begun to be drawn up, and ſome progreſs made therein, during the appellant's impriſonment, with the deſign of being then made public; but owing to many unavoidable circumſtances, and *one totally inſurmountable*, ariſing from what he has undergone, it has been retarded from appearing till now; and in the intermediate time the priſon, wherein he was confined, having been deſtroyed, many who may read it might poſſibly imagine he was indebted for liberty to that well-known tranſaction; he has, therefore, thought it neceſſary, as well to obviate ſuch opinion, as to ſhew the light in which the proſecution againſt him was conſidered, and to point out in what degree the machinations of his enemies have been fruſtrated, to ſubjoin thereto copies of the remiſſion of his puniſhment, and pardon.

The delay of the publication will, however, he truſts, prove no impediment to the effect expected from it; and the more ſo, ſince it has given time for an event taking place, from which his cauſe, which, he further truſts, he will be fully juſtified in calling *The Cauſe of Truth*, will derive additional advantage, inaſmuch as it will ſo far develope this proſecution, as clearly to ſhew Mr. *Davis* not to have been the proprietor of the ſhop, in which this robbery is ſaid to have been committed, nor, conſequently, of the property therein, as he ſwore on the trial. The event he alludes to, is no leſs than the accompliſhment of a prediction hazarded in the ſubſequent ſheets; purporting, that the *connection* between Meſſ. Davis and Lloyd, of what ever kind it might be, would be diſſolved. And though it has not happened *preciſely*, in conſequence of what was foretold, which was the iſſue of the ſeizure made on the 21ſt of March laſt, yet that circumſtance concurring with *more omiſſions of entry, or falſe entries*, in the Exciſe books of this ſhop (of a nature ſimilar to thoſe mentioned in the note on page 10 of the caſe) the penalties of which, added to that on the ſaid ſeizure (conjointly making the ſum of 225l. 10s.) has affected it. For certain it is, notwithſtanding Mr. Davis, who had contributed all in his power to ſhew the appellant no favour,

favour, received favour in having the ſaid penalties mitigated to 162l. that *immediately*, * upon the ſaid conviction, the name of Mr. Davis was *withdrawn* from the books of the Exciſe office, and the *maid ſervant* of Mr. Lloyd, Margaret Treeves (Mr. Lloyd ſtill remaining the uncertificated bankrupt he had ſworn himſelf on the appellant's trial) was commiſſioned to make entry at the Exciſe office in her name, of this ſhop which had before paſſed for Mr. Davis's. Nor did this manœuvre long continue to ſerve Mr. Lloyd's purpoſe; for after *another* ſeizure (and previous to the trial thereof, which very lately took place) had been made in the now mentioned ſhop, whilſt it went under the above Margaret's name, Mr. Lloyd, with the ſame dexterity for which he has been ſo long and ſo deſervedly renowned, cauſed her to *withdraw* her name from the books at the Exciſe office. This meaſure, well knowing he would have to pay both, he adopted, either with a view to evade the penalty on the ſaid ſeizure, or the expence of an action againſt her, at the City of London's ſuit, for keeping a ſhop within its precincts, ſhe not being free thereof.

* The 8th of Auguſt, 1780, (it appears by the books at the Exciſe office) was the day on which Mr. Davis was convicted in the penalties of 225l. 10s. and on that very day that his name was withdrawn, and that of Margaret Treeves's entered therein.

That being the caſe, this ſhop, after undergoing, in ſo ſhort a ſpace of time, ſo many revolutions with reſpect to its proprietors, and Mr. Lloyd having, very poſſibly, after ſerving Mr. Davis ſo ſcurvily (after being ſo eſſentially ſerved by him with the *uſe of his name*) as to ſuffer him to pay the ſaid penalties, been unable to procure ſuch another dupe to his purpoſe, it has revolved back to one of its *original* proprietors, and is now entered at the Exciſe office in the name of either Mr. Edward Lloyd's uncle or brother; but as their names are ſimilar to each other, and there is not affixed to that in the ſaid books either ſenior or junior, the appellant cannot pretend to ſay which. Nor is it, he preſumes, very material, ſince its being *either*, with what has been ſhewn of Mr. Davis after what he ſwore on the appellant's trial, the immediate entry thereupon of Mr. Lloyd's *maid ſervant*, and ſhortly * after *withdrawing* the ſame, will ſhew, in its proper light, the proſecution, which has produced the following Appeal.

March 24, 1781.

* The 30th of October, 1780, appears by the books at the Exciſe office, to have been the day on which Margaret Treeves withdrew her name therefrom, and that of Samuel Lloyd became entered therein.

To the Hon^ble the Commiſſioners of His Majeſty's Revenue of Exciſe:

GENTLEMEN,

HONOURED as I have been for ſome years paſt, with your patronage and protection, in the employment which you were pleaſed to confer on me, and as I flatter myſelf that every moment of my ſervice therein, has been uniformly devoted to diſcharge its duties with all poſſible integrity and diligence, it is but natural to conclude that the infamy and diſgrace, heaped upon me by the annexed trial and proſecution, have rendered me truly miſerable; and that I am anxiouſly deſirous to retrieve a character ſo dreadfully ſacrificed to malice and reſentment, by every juſtifiable means in my power.——This is a duty I owe myſelf, and which, unleſs in ſome reſpect accompliſhed, muſt embitter the remainder of my life; yet I beg permiſſion here

here to declare, that however anxious and ambitious I am to attain that end, it is not my *ſole motive* for thus publiſhing, what would otherwiſe be, my own diſgraceful ſituation to the world. I do declare that a regard for His Majeſty's Revenue, and the very alarming apprehenſions which this tranſaction has occaſioned, for the honour, character, and perſonal ſafety of every officer appointed to collect and preſerve that Revenue, impel me thus to lay before you, the dangerous tendency of this proſecution, if admitted into precedent, or ſuffered to paſs un-noticed.——If an officer of the Revenue, of the moſt unblemiſhed character, can be ſuppoſed capable of committing ſo daring and outragious a robbery, as that charged againſt me in the following trial, in an open ſhop, in one of the moſt public and populous parts of the city of London, and at an hour equally, if not more dangerous, than any other that could be mentioned, how terrible muſt be the ſervice! and on how precarious a tenure are even the lives of all thoſe, whoſe duty it is, and who are compelled to viſit and examine the houſes of many men,

men, whoſe practices, in proportion as they render ſuch inſpection neceſſary, prove the turpitude of their characters and principles, at all the moſt loneſome and unſeaſonable hours of the night, as well as the day, and that too unattended, or unguarded with any witneſs to prove the rectitude of their conduct, or guard them againſt malicious proſecutions? The natural inveteracy of all dealers in contraband goods, againſt officers of the Revenue, is but too well known, and fatally experienced.——If then, inſtead of that violence and bloodſhed ſo often practiſed, in open defiance of the laws, and under the heavieſt penalties, the more eaſy, ſecure, and certain means of depriving an officer of both life and character is adopted, by proſecutions for *robberies*, on the ſole evidence of the very parties, whoſe ſuſpicious characters and principles make the attendance of theſe officers neceſſary, what dreadful conſequences may not flow from it! The practice, thank Heaven, is yet in its infancy.——I believe that I am the firſt victim that have fallen to it; and although my ſufferings are far ſhort of what the proſecution aimed

aimed at, they are ſuch as muſt and will deter the moſt zealous of His Majeſty's Revenue Officers, from doing the moſt eſſential part of their duty, if ſome protection is not held out to them againſt ſuch daring and wicked attacks. And ſeverely as I feel my own diſgrace, perhaps my utter ruin, I ſhall find very great conſolation, if through me, and by the publication of the following caſe, any ſafeguard can be obtained, or further ſecurity propoſed, in favour of my brother officers in the execution of their duty. In this view, I flatter myſelf, you will pardon the liberty of this addreſs; and that in proportion to the juſtification I now offer of my innocence, my paſt and future conduct and character will, in ſome degree, claim both compaſſion and protection.

I am, with all due Reſpect,

GENTLEMEN,

Your moſt obedient and humble Servant,

JOHN HUDSON.

Newgate, 16th April, 1780.

THE

THE

CASE, &c.

WHENEVER any man has the misfortune to be *convicted* of a crime, it is natural to expect that the public at large ſhould conſider him as guilty of it, and look upon him as criminal. *Appearances* juſtify ſuſpicion, and when any objects of conſequence, ſuch as the public peace, or the ſafety of individuals are at ſtake, *ſuſpicion* is a juſt ground for taking every precaution againſt attacks on either. But there are *ſome* caſes, in which a *fortuitious concurrence* of *unfortunate circumſtances* may affect a man *innocent in fact*, though found *guilty in law*. *Accident* may furniſh *circumſtanſtial*, and *malice poſitive evidence* againſt a man, ſufficient to affect his liberty, or life, notwithſtanding he may be innocent. In *ſuch caſes*, every man poſſeſſed of the leaſt ſhare of ſenſibility or reflection, will compaſſionate his ſufferings; and although appeals to the public on thoſe occaſions (after the deciſion of a jury) are generally read with indifference, if not with prejudice, yet the unhappy victim of the preſent proſecution hopes *this* will be favoured with a moment's attention, and that upon the whole merits thereof the candid part of mankind will exerciſe their judgments with coolneſs, *previous to their acquieſcing* in an opinion of his guilt.

The appellant is charged with ſtealing, on Saturday the 20th of November laſt, fourteen pounds ten ſhillings, viz. a bank note of ten pounds, and four pounds ten ſhillings in gold and ſilver, out of a till in a ſhop belonging to the proſecutor, in Fenchurch-Street.

Upon this charge, he was tried at the Old Bailey, on the 9th of December, when the evidence to ſupport it was that of *Edward Lloyd* and *Mary* his wife, the pretended ſervants to or managers of the proſecutor's *(Robert Davis)* buſineſs, whoſe property they ſwore to have been ſtolen. They depoſed, that in the evening of Saturday, the 20th of November laſt, the appellant came into their ſhop and *told them his name was John Hudſon, that he was an Exciſe officer* come to ſurvey their ſtock of tea, and ſhewed *a piece of paper* which purported to be a deputation or authority for acting. That he looked at a bag of tea, for the purpoſe of examining it, which he endeavoured fraudulently to diminiſh, by taking *an handful* out of it, that, upon being made to *diſagree* with the permit, he might render it liable to ſeizure. That the wife, Mary, diſcovered this ſtratagem, and prevented its ſucceſs; and that on the appellant's being detected in this fraudulent attempt he drew a knife, which ſo affrighted Mrs. Lloyd, that ſhe ran out of the ſhop for aſſiſtance, and that in her abſence, the appellant leaned over the counter, under the preſence of ſeeing whether any more tea was lodged behind it, and that, in ſo doing, he put his hand into the till, and haſtily ſnatched up the money ſtated to have been ſtolen, and then precipitately ran out of the ſhop; that, after ſome purſuit, he was taken in Gracechurch-Street, and delivered to a peace officer, who conducted him to priſon.

This evidence being *poſitive* and uncontroverted, the jury, as they no doubt thought themſelves indiſpenſibly bound, found him guilty, and he accordingly received a ſentence

ſentence thereupon, which was, impriſonment for one year in Newgate, and a public whipping: a ſentence, which, had he been *really guilty* of the crime he is charged with, would have been *ſilently* ſubmitted to, and his miſeries and diſgrace not thus *aggravated*, by publiſhing both, in an appeal to the public. But being in a great meaſure (from the nature of the tranſaction that gave riſe to the proſecution) unapprized both of the nature and tendency of the evidence to come againſt him, and conſequently unprepared to reſiſt it; and, from the ſame cauſe, without a *ſingle evidence* to invalidate any part of it, the appellant had no other reſource but an appeal to his former life and character.

Therefore, on his part, on the trial, it was proved by the evidence of Andrew Allen, Eſq. * late Attorney-General of the province of Pennſylvania, in North America, that, in the year 1764, the appellant went from London to Philadelphia with his father, to whom he ſerved an apprenticeſhip as clerk in his compting-houſe, and with whom, and Phineas Bond, Eſq. (another gentleman who likewiſe appeared in his behalf at his trial) he lived till the commencement of the commotions in that country in 1775, when he returned to England and obtained a place in the Exciſe, in the month of April, 1776, and continued therein until the moment of his preſent misfortune, in both which ſtations he received a character ſo diſtinguiſhingly flattering, that the Judge, who preſided at the trial, in ſumming up the evidence, was free to declare, "*that, in that Court, he never heard teſtimony borne to a fairer or better character.*"

This extraordinary character was given of the appellant, by no more than *eight* of the gentlemen who at-

 tended,

* Brother-in-law to the Hon. John Penn, Eſq. late Governor of Pennſylvania.

tended, the Judge deeming that number ſufficient, otherwiſe there were *forty* and upwards of the moſt *reſpectable* perſons preſent, ready to bear the like teſtimony.

This reſpectable character from ſo many witneſſes of the firſt credit, though not ſufficient to acquit the appellant from the *poſitive evidence* of *Lloyd* and his wife, whoſe character and profeſſion (circumſtanced as he was) it was then utterly impoſſible for him ſufficiently to develope, operated (as the Recorder informed him at paſſing the ſentence) to mitigate the puniſhment which otherwiſe would have been inflicted for a crime of ſo dangerous a nature (three years hard labour on the Thames) to a year's impriſonment in Newgate, and a whipping. And ſo convinced was the Recorder of its being a *malicious* proſecution, that he went yet farther, and recommended the appellant to his Majeſty, who was pleaſed to remit the latter and moſt ignominious part of the ſaid puniſhment.

But although it is not the appellant's intention herein, by any means whatever to offer the leaſt reflection on the deciſion of the Court or Jury before whom he was tried, yet he truſts that when the *character* of the *only witneſſes* who were examined to prove this ſtrange charge, and their *ſuſpicious connection with the proſecutor, their ſituation in life, and motives for the proſecution*, are *fully* and *coolly* conſidered, and weighed in the ſcale of juſtice, againſt the appellant's ſituation in life, employment, and eſtabliſhed character *from his infancy to the period of this tranſaction*, and proper allowances made for the *many diſadvantages* which he laboured under, at the moment this crime is ſaid to be committed, as well as at the time of the trial, particularly in being without a *ſingle witneſs* to invalidate any part of the evidence for the proſecution, the whole of the charge will appear the moſt improbable and incredible of any ever offered to the

the conſideration of a Court of Juſtice. And as what is now meant to be offered, as the *genuine* hiſtory of this tranſaction, is ſupported by the unimpeached teſtimony of ſeveral gentlemen of the firſt character, who appeared at his trial, and as it cannot alter his preſent ſufferings, but is done ſolely for the purpoſe of reſcuing, in ſome meaſure, an injured and irreproachable character (before it happened) from future ignominy, it is hoped the relation will obtain credit with the candid, and compaſſion from the juſt and benevolent part of mankind.

To enter, therefore, into the full merits of this caſe ſo as to enable the reader to judge properly of it, it is neceſſary to obſerve, that this is not the *firſt*, or the *only* attempt *Mr. Lloyd* has made to break off all *acquaintance* with the officers of his Majeſty's revenue. His conduct, for years paſt, has been ſuch as to merit *their particular attention and utmoſt vigilaace*; and in return for their aſſiduities, *he commenced ſeveral actions and ſuits at law againſt them, on the moſt frivolous and fallacious pretences*, for the very evident purpoſe of *deterring* any of them from viſiting or entering his houſe to do their duty. In that light he was *pointed out*, and well known to the appellant; and that the appellant's perſon and official authority were equally well known to Mr. Lloyd, will appear beyond the power of contradiction, by the certificate annexed to this caſe. With this ſort of knowledge of each other, the ſource of this proſecution aroſe from the following circumſtance:

On the 20th of November laſt, as the appellant was going up Borough-High-Street towards London-Bridge, between nine and ten o'clock in the evening, he overtook the ſaid Edward Lloyd, whom he obſerved to have a parcel in his arms, which from the *previous* knowledge he had of him, his manner of carrying it, (having a looſe bag, by way of deception, as a covering over it) and appearing from the way which he came to have come

come from the King's-Bench priſon, (a place notorious for harbouring ſmuggled goods) gave him great reaſon to believe contained un-permitted goods; he accordingly looked attentively at it, and endeavoured to avoid being noticed by Lloyd, but which he perceiving, went cloſe up to the appellant and gave him a puſh, as though evidently meant to inſult him; and in a bullying manner ſaid "*That if the appellant entertained a ſuſpicion of his having any thing with him which he ſhould not have, there was then an opportunity of doing his duty.*" Whereupon the appellant aſked him his reaſon for thus accoſting him, and at the ſame time told him, that ſince he had addreſſed him in ſuch a manner, and as he had authority ſo to do, and knew where he lived, he would go with him to his houſe, and ſatisfy himſelf with regard to what he had in the ſaid bag or parcel; and accordingly the appellant went with him from London-Bridge to Fenchurch-Street, when on going into his houſe, he ſhewed Lloyd his commiſſion or deputation, and told him his name; and after having examined the ſaid parcel, and finding there was a legal permit for the tea contained therein, was peaceably going out of the ſhop, when recollecting the ſaid Lloyd's wife (who was in the ſhop when Lloyd and the appellant went into it) while he was engaged in examining the ſaid parcel, had ſlipt out, and gueſſing from their former character and diſpoſition that ſhe was gone to collect a mob to abuſe him; he was preſently confirmed in his ſuſpicion by ſeeing ſeveral people, ere he had got far from the ſhop, following him, and knowing the inveteracy of the populace againſt officers of the revenue, eſpecially when unſucceſsful in their reſearches, he apprehended immediate danger, and to prevent their deſigns (being alone and without any aſſiſtance) he endeavoured, by running, to get away from them; but had not got farther than Gracechurch-Street, before he was overtaken by ſeveral perſons, and after receiving many blows and much

much abuſe, a peace officer coming up, he, as the only ſecurity he could then hope for from the further violence of an enraged multitude, readily put himſelf under his protection, when Lloyd perſiſting in the charge he had made upon firſt overtaking of the appellant, of his having robbed his till, and immediately leaving him (as he admits) the conſtable, as he could do no other, took him to the watch-houſe, and from thence, after waiting ſome time in expectation of Lloyd, to the Poultry Compter.

Thus this tranſaction ſtands differently related by the parties; and, on the part of the proſecution, remains *totally unſupported by any evidence whatſoever, except that of Mary, Lloyd's wife* (which, in law and reaſon, ſhould be deemed the evidence of her huſband *only*) and with regard to the *moſt material* part of it *(the taking of the property)* upon *Lloyd's ſingle teſtimony*. And it will be admitted, ſince the appellant never was, in fact, out of the ſaid Lloyd's ſight (as he admits) from the moment he left the ſhop in Fenchurch-Street, until he was ſtopped as aforeſaid in Gracechurch-Street (a diſtance as appears by the evidence of Mr. Gibbs of not more than twenty yards) and in which he could not poſſibly have diſpoſed of either the money or bank note alledged to have been ſtolen, to be ſomewhat ſtrange that *Lloyd* never attempted to ſearch him, upon overtaking and giving him in charge (which he alſo admits) or that he did not go with him to the watch-houſe for that purpoſe, which was cloſe by, *i. e.* at the Royal-Exchange; or that he did not make the leaſt endeavour whatever, to *recover* his property, which had he really loſt, or had ſeen the appellant take (as he ſwore on the trial) it is ſubmitted to every perſon of candour, whether ſuch an endeavour would not have been the *firſt* and the natural conſideration of him, and of every one conſcious of having been robbed, and particularly within their ſight. But inſtead of this he admits, that he never even *once* men-

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tioned or attempted to ſearch him, but on the contrary that he contented himſelf with *only delivering him into the cuſtody of the conſtable*, without going to the watch-houſe with him, or doing any thing more than charging him with a robbery *at large*.

It may be very juſtly aſked why the appellant, for his own juſtification, did not call for, and inſiſt on ſuch an examination, or ſearch? The only rational anſwer that can be given, for ſo fatal a neglect, is, *the fact*, that not having the leaſt idea of what Lloyd meant by the charge of a *robbery*, being *conſcious* that he was not *guilty of any offence*, beſides that of doing his duty in the act of examining the tea, as before mentioned, and from thence, though Lloyd had made the charge, and notwithſtanding his general character, thinking he would have retracted from it, ere he ſuffered him to be taken to priſon, ſuch a thought never occurred to him; together with the embarraſſment and confuſion, from the apprehenſions of danger he was thrown into, at being ſurrounded by a mob, eaſily provoked againſt officers of the revenue; to which idea, being now addedthat of *thief*, ſo incenſed them, that the peace officer could ſcarce reſtrain them from uſing farther violence; all which ſo confounded him, that he had not preſence enough of mind to to call upon Lloyd to *ſpecify the nature*, or even the *quantum* of ſuch robbery; and to that neglect *alone* is to be aſcribed all his preſent miſeries; for had he then called upon Lloyd to ſpecify the charge, and to ſearch him for the property alledged to have been ſtolen, it would have been impoſſible for him ſo inſtantaneouſly to have invented the connected ſcene of falſhood, *which time, malice, and a dread of future conſequences afterwards ſuggeſted*; for Mr. Lloyd recollected that if the charge of robbery *was not eſtabliſhed* againſt the appellant, the conſequence might be *fatal to himſelf*. And as he was not (as before obſerved) out of his ſight an inſtant,

ſtant, immediate ſearch would have defeated the whole ground of the proſecution; he was aware of it, and therefore gladly retreated under the ſecurity of the appellant's ſilence and fright.

Such being then as nearly the ſtate of the tranſaction, on both ſides, as it is poſſible for the appellant to ſtate it, it is neceſſary, in order to enable the candid reader to judge of the probability of either narrative, that the *condition in life, character, and circumſtances of each party*, ſhould be fully conſidered.

For that purpoſe, it is neceſſary to add, to the foregoing part of Lloyd's character, the following fact, which he admitted on the trial, viz. that he was long before, and at the time this robbery is alledged to have been committed, an *uncertificated* bankrupt, and conſequently *could* not be *honeſtly* poſſeſſed of any large property. In order, therefore, to give ſanction to ſuch a robbery being committed in this ſhop, and to ſo much property having been ſtolen out of it, at the commitment of the appellant to take his trial, he ſwore that the whole ſum alledged to be ſtolen by the appellant was the property of Mr. *Davis*, in whoſe name the ſaid ſhop had been entered at the Exciſe Office, ſome few months before, and that he was only the ſervant or manager of Mr. Davis's buſineſs; conſequently, the appellant was indicted for ſtealing the ſame as being Mr. Davis's property; but which, inſtead of being eſtabliſhed at the trial, is flatly contradicted by the evidence of both Lloyd and his wife, who *poſitively ſwear*, that the bank note (admitting it to have exiſted, and to have been in their poſſeſſion at the time) was the ſole property of a Mrs. *Lawrence*. That being the caſe with regard to ſo much of the property, the reader is at liberty to form his own opinion, and to judge how far Mr. Davis was the proprietor of the remainder of it, and of the ſaid ſhop, from the following incontrovertible facts: firſt, that Lloyd and

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his wife live in the ſaid houſe, without any ſervant, or other perſon therein, belonging to Mr. Davis: ſecondly, Mr. Davis's total ignorance of every occurrence in the ſaid ſhop, as well as of the property in it, apparent from his own evidence, as he acknowledges (although nineteen days had elapſed) that he knew even then no more of the alledged loſs, than what he learned from Lloyd's information: thirdly, the ſaid ſhop having been kept in the names of the ſaid Edward Lloyd and brother, jointly, or their uncle (as appears by the annexed certificate to this caſe) to the 26th of Auguſt laſt, until which day there is no appearance in the books at the Exciſe Office (where every perſon, commencing the buſineſs of a tea-dealer, is, by law, enjoined to enter their names, or ſubject themſelves to a heavy penalty) of the name of the ſaid Robert Davis, for that or any other ſhop; and as Mr. Davis acknowledges himſelf to be a packer, and to follow that buſineſs, and to have another houſe, it is evident, to the cleareſt demonſtration, for what purpoſe Davis's name is thus made uſe of, ſince the commencement of Mr. Lloyd's bankruptcy: and it being alſo a fact, as incontrovertible as any of the foregoing, that notwithſtanding the ſhop appears, by the certificate annexed to this caſe, to have been entered at the Exciſe Office, the 11th of May, 1778, and continued in the name of Samuel Lloyd, the uncle, till the 26th* of Auguſt laſt

* A very good reaſon is to be aſſigned for the entry in the name of Samuel Lloyd being withdrawn. Every tea dealer is by law enjoined to keep two Exciſe books in his ſhop, in which is daily to be entered all tea ſold by them, in the large or ſmall quantity, in the courſe of the day, and which, when full, are to be delivered into the Exciſe Office, upon oath. It was, therefore, upon the 27th of Auguſt, 1779, that one or more cauſes, for omiſſion of entering, or falſe entry, in thoſe of this ſhop, were to be tried before the Commiſſioners of Exciſe; the penalty of each of which offences is one hundred pounds; but, by this ſkilful manœuvre, and its being previouſly entered in the name of Mr. Davis, the property in the ſhop became ſecured from the conſequences of the determination thereof.

laſt, yet the ſaid Samuel Lloyd did not, in all that time any more than Mr. Davis, ſince the latter period, (both of which appears by the ſaid certificate) live in the ſaid houſe, but near Moorfields, where he kept a pork ſhop. And as it was before the former of the ſaid periods that Edward Lloyd became a bankrupt, it is very evident for what purpoſe the ſaid Samuel Lloyd's name was thus alſo made uſe of. And it is ſubmitted, ſince Mr. Lloyd ſwears (ſee trial, page 43) that Mr. Davis was not a grocer, until he came to him, that the only connection which can exiſt between them, muſt be in the very profitable trade carried on by *Lloyd*, and to execute which, Mr. Davis may occaſionally have furniſhed him with money, and poſſibly may have ſhared the profits of ſuch *honeſt induſtry*, ſeparately conducted under the auſpices of ſo experienced a trader as Lloyd. But as the greateſt Generals have been ſurprized, ſo, as a proof of what is now here advanced, notwithſtanding all the caution and experience of Mr. Lloyd, a quantity of tea has been recently (the 21ſt of March laſt) ſeized in this very ſhop, by the officers of Exciſe; *and the event may poſſibly ſhew whether Mr. Davis, on this occaſion, will avow himſelf the oſtenſible offender, or tranſfer the guilt to his confidential ſervant, Mr. Lloyd.*

Such being then the true circumſtances and ſituation of Mr. Lloyd, it muſt be allowed that frequent viſits from a man of the appellant's profeſſion could not be very acceptable to him; and as it then *happened* that the tea examined by the appellant was *legally* permitted, for the probable purpoſe of *illegally* permitting ten times the quantity (and it is not altogether impoſſible but that fact will yet be proved, and that he *that evening* conveyed a quantity from the Borough) he was reſolved *effectually* to prevent any future viſitations from the appellant, at times that might be more dangerous to himſelf. Indeed it was not Mr. Lloyd's *fault*, that the appellant's life

was not the *forfeit* of this firſt viſit. But although the whole of their evidence was endeavoured to be corroborated by each other's, and although they had agreed nearly in the *great outlines* of it, yet Mrs. Lloyd either forgot the material part of the *inſtructions* that were given her, or Mr. Lloyd did not *compare* notes with her ſo *exactly* as to enable them to preſerve either time or conſiſtency. And although the points in which Mr. and Mrs. Lloyd have differed in their evidence may not, at *firſt ſight*, be conſidered as very material to the other incredible circumſtances they have ſworn to, yet it is proper to obſerve, that in *caſes of this nature*, a contradiction of evidence, between two perſons preſent at, and equally well or ill acquainted with the whole tranſaction, ought, upon every principle of law and juſtice, not only to impeach, but alſo to *invalidate* the whole of both.

It is neceſſary, therefore, to obſerve, that Mr. Lloyd, on the trial, repeatedly ſwore, that another man (whom he calls an accomplice in this robbery) went into the ſhop *before the appellant*, and that *he left the ſaid perſon in the ſhop* with his wife, when he purſued the appellant.

Now, Mrs. Lloyd, on the trial, ſwore that the ſaid pretended accomplice went into the ſhop *along with the appellant*, and bought ſome tea, which ſhe weighed him, whilſt the appellant was examining the tea which he apprehended was ſmuggled, and that when her huſband went in purſuit of the appellant, the *pretended accomplice joined the purſuit after the appellant*.

Mr. Lloyd alſo ſwore, on the trial, that he did not return home, on the 20th of November (the night of the ſuppoſed robbery) until between *ſeven and eight* o'clock at night.

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Mr. Lloyd alſo ſwears, that *he* received the bank note that very day, from Mrs. *Lawrence*, that he put it into the till, from whence it is alledged the appellant took it, and that it was left with him to pay for ſome things which Mrs. Lawrence bought of other people.

Mrs. Lloyd ſwears, that *ſhe* received the bank note, that evening, from Mrs. Lawrence, *previous to her going to the play*. Now, if this bank note was really given by this Mrs. or Miſs Lawrence (for ſhe is called both) to either of thoſe *reſpectable witneſſes*, it is evident, to the cleareſt demonſtration, that it could not be given to Mr. *Lloyd*, becauſe he ſwears, that he did not return home till between *ſeven and eight* o'clock that evening, and Mrs. Lawrence (who is alledged to be a country lady, and therefore it is to be ſuppoſed the more anxious to be timely at the play-houſe) muſt ſurely have been gone there from Fenchurch-Street, long before the time Mr. Lloyd ſwears he returned home that evening. But then as no particular time of the day when Mr. Lloyd received it, is mentioned, there is great reaſon given the reader to think he received it ere he went out; yet as Lloyd ſwears particularly to the time of her receiving it, (viz. "about five o'clock") that cannot be the caſe. Theſe are evident facts from the trial ſtated in the ſeſſions paper, taken by *authority*; and as they ſtand uncontroverted, it remains with Mr. and Mrs. Lloyd to *reconcile* them. It is truſted they need no comment here.

Let us now examine the appellant's ſimple narration, character and ſituation in life, and contraſt it with the probability of the evidence for the proſecution. The opinion

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opinion of the Judge who tried him, in the point of character, is too remarkable to need repetition; more particularly, when it had been endeavoured (vide trial, page 54, 55) as much as in their power, to be blackened by the *malicious* evidence of Meſſrs. *Dunnage and Hayward*. Mr. *George Beck*, a man of worth and reputation, in whoſe houſe the appellant lodged, ſwears, that he daily intruſted him with property to the amount of four, five, or ſix thouſand pounds. He held a Commiſſion from the King, which put him above neceſſity, and he is proved to be a ſober man, and free from leading that ſort of extravagant or diſſipated life, which might have ſeduced him to commit ſuch a crime; and Lloyd himſelf ſwears, that he *ſhewed* him his Commiſſion, and told him his *name*, upon going into the ſhop. Can it then be credited, or is there one candid and diſpaſſionate man exiſting can believe, that a man, bearing the character that appears to have been given of the appellant, and which he has always invariably ſupported from his youth down to the period of this tranſaction, and who, after having long made a temperate uſe of life, after a ſeries of thinking and acting regularly, without a ſingle deviation from the rules of honeſty, though having had ample temptation and opportunity, ſhould be ſuddenly led to plunge into all the depths of a deſperate and practiſed robber, and that he would go into the ſhop of *ſuch a man* as Lloyd, in the moſt public and populous part of the city, and at ſuch a time in particular as Saturday night, at ſuch an hour as is related, and in the preſence of himſelf, his wife, and *another* man (who was in truth in the ſhop at and before the time the appellant went into it, and whom the appellant never remembers to have ſeen before or ſince, but from the face of the evidence for the proſecution cannot be deemed an accomplice) and there commit ſo daring, ſo deſperate a robbery as is now imputed to him? It is not only he truſts altogether improbable

bable and unprecedented, but abſolutely inconſiſtent with the general courſe of things. Mankind are never entirely corrupted at once. Villainy is always progreſſive; it declines from right, ſtep after ſtep, and does not unmaſk until, by degrees, every regard of probity is totally loſt. But it is ſcarcely to be conceived that the moſt deſperate and hardened thief would dare to make ſuch an open attack, where there was ſcarce *a poſſibility of eſcape or retreat*. Surely, then, it is morally impoſſible that a man of the appellant's character, thus circumſtanced, and free from diſtreſs and every temptation of that nature, and who was daily intruſted with conſiderable property, as appears by the concurrent teſtimony of almoſt all who were examined at his trial, and by Mr. Beck and Mr. Lamb in particular, ſhould go into a ſhop, in the manner deſcribed by Lloyd, with the intent to commit a robbery, and in the manner this is ſaid to have been perpetrated, had he *even known* that Mr. Lloyd's till had been *full of bank notes or gold*; but *ſtill leſs credible* where the probability was, that his booty would have amounted to no more than a *handful of halfpence*, or *ſilver and halfpence together, at moſt*, the only coin uſually kept in ſuch open ſituations. Had that been his intent, he would certainly have ſtudiouſly concealed his *real name* and *occupation*, and not have proclaimed them in the manner Lloyd and his wife have both ſworn he did. The greateſt ideot muſt have known that ſuch information muſt neceſſarily lead to a diſcovery of him, and would render it impoſſible for him to evade juſtice or detection.

On this view of the caſe only, the appellant truſts the whole of this proſecution will appear the moſt extraordinary and improbable that ever came before a court of juſtice; and if it had been thus fairly and fully ſtated, and the ſeveral contradictions before mentioned, and in the courſe of the evidence of Lloyd and his wife, pointed out

out to the Jury, he is perſuaded they would never have found him guilty; but unfortunately for himſelf (not having been otherwiſe adviſed by either his counſel or attorney, as may well be ſuppoſed, or he would not ſo materially have injured himſelf) he was too anxious to enter into the *unſupported* narrative of his defence, which, as he truſted every thing in that reſpect to his counſel, was nothing more than a detail of the circumſtances that gave riſe to the proſecution, and thereby *precluded* himſelf the benefit of ſuch evidence (being preſent) as might have elucidated, though it was impoſſible (the nature of the tranſaction that gave riſe to the proſecution having deprived him of ſuch evidence) to contradict the poſitive evidence for the proſecution, without pointing out the various contradictions herein, and in the notes on the trial, particularly ſtated; but which, both from having been unapprized, previous to the trial, of the nature of the evidence to come againſt him, ariſing from the ſame cauſe, and from the confuſion and embaraſſment he was then in, (of which he leaves his readers to form their own judgment) he was utterly unable to do. This difficulty, added to that of its having prevented his counſel from entering into the merits thereof, as they would otherwiſe have done, cauſed the whole of the evidence, with all its malignant abſurdities, *only* to go the Jury.

This appeal to the candid public is here concluded, with only theſe obſervations:——That as ſoon as poſſible after the commencement of this proſecution, payment was ſtopped (by the appellant's attorney) at the Bank, of the note deſcribed by Lloyd to have been ſtolen; and it has not yet been preſented for payment:—That the appellant has advertiſed in the newſpapers, and by publiſhing two thouſand hand bills, offered a reward of twenty pounds (double its ſum) to any perſon producing the ſame; and alſo in the ſame way, and by publiſhing

two

two thouſand hand bills more, he has offered a reward of ten pounds, to find out the man who appears to have been preſent in the ſhop at the time this robbery is ſaid to have been committed; but having been credibly informed that he was a *ſmuggler*, he has too great reaſon, from his not appearing either at the trial, or ſince, to think it ſo, or if not, that *proper precautions* have been uſed by *thoſe*, whoſe *intereſt* it was that he ſhould not, to prevent it.

It is therefore to the tenor and uniformity of his life and character from his youth, to the moment of the preſent tranſaction; and to the utter improbability of the caſe, the appellant can appeal for proofs of his innocence, before a candid, humane, and benevolent public. *They are the Judges in the preſent caſe*; and however ſevere his ſufferings, it is truſted, the *motive* will excuſe the endeavour to retrieve an injured character, until ſome future event ſhall bring forth ſtronger proofs in his favour. Nor is he without hopes of ſuch proof; villainy is generally attended with no more than *temporary* proſperity; Mr. Lloyd's *ſucceſs* in this proſecution may lead him into others, in which a defeat may bring him to juſtice, if the appellant cannot.

CERTIFICATE.

WE the Surveyor, Permit-Writers, and Officers belonging to the Exciſe Office, in Bell-Yard, Grace-church-Street, London, whoſe names are hereunto ſubſcribed, do hereby certify that upon examining the books of this Office, it appears that John Hudſon (now priſoner in Newgate) between the 29th day of September, and

 the

the 10th day of October, 1778, did write out for Samuel Lloyd, at that time tea dealer, (No. 164) in Fenchurch-Street, four permits, for certain quantities of tea, &c. therein particularly contained; and that he (Samuel Lloyd) within the ſaid period did likewiſe receive from other perſons, belonging to this Office, three permits for tea, &c. And it alſo *appears*, that between the 26th of February, and the 14th day of April, 1779, the aforeſaid John Hudſon did write out, for the ſaid Samuel Lloyd, ſeven permits, for certain quantities of tea, &c. in which time the ſaid Samuel Lloyd alſo received, from other perſons belonging to this Office, twenty-ſeven permits for tea, &c. during which periods the ſaid John Hudſon conſtantly acted, officiated, and belonged to this Office as Permit-Writer: And by the ſaid books it alſo appears, that from the 28th of Auguſt laſt, until the 20th of September, he acted and belonged to this Office as officer. *In all which periods*, we certify, *that it was uſual for Edward Lloyd, who was the principal evidence on the trial of the ſaid John Hudſon, to come to this Office for permits.* Atteſted by us, agreeable to leave given us, for that purpoſe, by the Hon. Commiſſioners of His Majeſty Revenue of Exciſe, this Sixteenth day of April, One Thouſand, Seven Hundred, and Eighty.

JAMES TAYLOR, Surveyor.

JOHN VIOLET, and
JOSEPH TYLER, } Permit-Writers.

STEPHEN SIDDALL,
WILLIAM BEETHAM, and } Officers.
JOHN BYARD,

WE the Surveyor, and Officers belonging to the Exciſe Office, Bell-Yard, Gracechurch-Street, London, whoſe

whoſe names are hereunto ſubſcribed, and under whoſe ſurvey the grocer's ſhop (No. 164) in Fenchurch-Street, now kept in the name of Robert Davis, is, do hereby certify, that it appears by the books of this Office, that the ſaid ſhop was entered at the Exciſe Office, in Broad-Street, for keeping and ſelling tea, the 11th of September, 1777, by Edward and Samuel Lloyd, brothers; that it was kept in their names, jointly, until the 8th of May, 1778; and that on the 11th of May, 1778, Samuel Lloyd, uncle to the ſaid Edward and Samuel Lloyd, made entry in his name, of the ſaid ſhop, for keeping tea, &c. for ſale, in whoſe name it continued until the 26th day of Auguſt laſt, when it was entered in the name of the ſaid Robert Davis, for the ſame purpoſe; prior to which day his name is not to be found in the ſaid Books. And we alſo further certify, *that inſtead of the ſaid ſhop being ſurveyed by* one *Officer, as is the accuſtomed manner in which all other grocers and tea-dealers are ſurveyed, it was a conſiderable time, prior to the 20th of November laſt,* (the day on which John Hudſon, now priſoner in Newgate, was charged with committing a robbery therein) *obliged conſtantly to be ſurveyed by* two *Officers, as one would never venture* alone, *not deeming himſelf* ſafe *in doing his duty therein, owing to what, on thoſe occaſions, ſeveral Officers had experienced from the ſaid Edward Lloyd; who in all the aforementioned periods lived, and ſtill lives, in the ſaid houſe; (the ſaid Samuel Lloyd, his uncle, during the period the ſhop was entered in his name as aforeſaid, having not lived in it; nor the ſaid Robert Davis now not living, nor at any other period having lived therein)* and who was the principal evidence on the Trial of the ſaid John Hudſon. Atteſted by us, agreeable to leave given us, for that purpoſe, by the Hon. the Commiſſioners of His Majeſty's Revenue of Exciſe, this

Sixteenth day of April, One Thouſand, Seven Hundred, and Eighty.

ISAAC WRIGHT, Surveyor.
STEPHEN SIDDALL, and
WILLIAM BEETHAM, } Officers.

(COPY.)

GEORGE R.
(L. S.)

WHEREAS John Hudſon was, at the laſt ſeſſion at the Old-Bailey, tried and convicted of ſtealing a bank note, and was ſentenced to be impriſoned and whipped for the ſame. And whereas we have thought fit upon conſideration of ſome favourable circumſtances humbly repreſented unto us, to extend our grace and mercy unto him, and to remit that part of his ſaid ſentence of whipping. OUR WILL AND PLEASURE therefore is, that the execution of the ſentence of whipping be remitted accordingly; and for ſo doing this ſhall be your WARRANT. Given at our Court at St. James's, the Twenty-eighth day of December, One Thouſand, Seven Hundred, and Seventy-nine; in the Twentieth year of our Reign.

By His Majeſty's Command,

HILLSBOROUGH.

To our truſty and well-beloved the Recorder of our City of London, the Sheriffs of our ſaid City, and County of Middleſex, and all others whom it may concern.

(COPY.)

GEORGE R.

(L. S.)

WHEREAS John Hudſon was, at a a ſeſſions holden at the Old-Bailey, tried and convicted of felony, and ſentenced to be impriſoned twelve months in Newgate for the ſame. And whereas ſome favourable circumſtances have been repreſented unto us, to extend our royal mercy unto him, and to remit him ſuch part of his impriſonment as remains to be undergone and performed. OUR WILL AND PLEASURE therefore is, that you give directions for the ſaid John Hudſon being forthwith diſcharged out of cuſtody, and for ſo doing, this ſhall be your WARRANT. Given at our Court at St. James's, the Twenty-ninth day of May, One Thouſand, Seven Hundred, and Eighty; in the Twentieth year of our Reign.

By His Majeſty's Command,

HILLSBOROUGH.

To our truſty and well-beloved James Adair, Eſq. Recorder of our City of London, the Sheriffs of our ſaid City, and County of Middleſex, the Keeper of the Goal of Newgate, and all others whom it may concern.

PROCEEDINGS at the Old-Bailey, (December 9, 1779) againſt JOHN HUDSON, who was indicted for ſtealing 3 Guineas, a Half Guinea, and 16s. 6d. in monies numbered, the Property of ROBERT DAVIS; and a Bank Note for 10l. the Money ſecured by the ſaid Note being due, and unſatisfied, to the ſaid ROBERT DAVIS, *the Proprietor thereof*, *(a)* Nov. 20th.

(The witneſſes were examined apart at the requeſt of the priſoner.)

ROBERT DAVIS *ſworn.*

I Live in Fenchurch-Street, and in Tower-Street; I have two houſes. I am *a grocer and a packer.*

Did you loſe any money or notes on the 20th of November?——*I know nothing of it*; I was out all that day. *Mr. Lloyd came to me the next day (b)* to let me know that ſuch a robbery had been committed, and that they

(a) At the very opening of this curious trial, there is an error that would have defeated the whole proſecution, had it been noticed in time.——It is ſtated in the indictment that the bank note was the *property* of Robert Davis the proſecutor; whereas it appears, by the *only* evidence for the proſecution, that if any ſuch note did exiſt, and was then in their poſſeſſion, it was the *ſole* property of a Mrs. or Miſs Lawrence, (ſhe being called both) and only lodged in the hands of *Lloyd*, the witneſs, for ſafe cuſtody, and therefore that Davis never *could* have any property in it.

(b) It is ſomewhat ſingular that *Lloyd* (who ſwears himſelf to be the ſervant of Davis) did not go to his *maſter immediately* after he left the defendant in cuſtody, and acquaint him with his loſs.——It

hey had ſecured the man. I advertiſed the bank note y hand bills, and in the newſpapers. Mr. Lloyd mana- es the grocery buſineſs for me. *All that I know of the natter is from his information.*

EDWARD LLOYD *ſworn.*

You are the manager of the grocery buſineſs for Mr. Davis?——I am.

You came on the 21ſt of November to inform Mr. Davis that ſome robbery had been committed in your houſe?——I did.

Inform the court and jury of the particulars.——On the 20th of November, at night, near the hour of ten, the priſoner came into the ſhop.

Was he belonging to the ſhop before?—— *No; I never ſaw him in the ſhop before. (c)*

Yours is a retail grocer's ſhop?——Yes; *the priſoner ſaid he was an Officer of the Exciſe.*

Had he any one with him?——There was a man in the ſhop, at the time, we ſuppoſed to belong to him; *he came in before the priſoner, (d)* under a pretence of buy- ing

—It was not quite ten o'clock, or even granting it was half an hour after ten, (as Lloyd ſwore ere he got home) it certainly could not have been deemed too late, conſidering it was Saturday night, and that it appears to have been within a very little diſtance.—But perhaps he wanted time to *recollect* how he ſhould frame the hiſtory of ſo wonder- ful a robbery.

(c) Here Mr. Lloyd ſwears very cautiouſly. The anſwer to this queſtion would induce a belief that he never ſaw the defendant before; and that idea is kept up through the remainder of the trial.—But he ſwears only that he never ſaw him *in the ſhop* before.—That is really the truth; the defendant was never *in the ſhop* before, but his perſon and employment were well known to Lloyd for a year or two before, as he had often made out and delivered permits, at the Permit-Office, to him, as ſtated in the certificate hereunto annexed.—How this cir- cumſtance correſponds with the remainder of Lloyd's evidence, the reader is left to determine.

(d) It is here material to obſerve, that *Mrs. Lloyd* ſwears that his pretended accomplice went into the ſhop *along* with the defendant, although her huſband poſitively ſwears he went in *before* the defendant.

ing an ounce, or half an ounce, of tea. I do not know which. I never ſaw him before to my knowledge.

The priſoner ſaid he was an Exciſe-officer, what did he ſay he came for?——He ſaid he came to ſee ſome tea weighed, and to examine ſome tea.

Did he produce a warrant?——He pulled a *piece of paper* out of his pocket; *he ſaid his name was John Hudſon.* I aſked him of what place; *he ſaid of no place at all. (e)*

Did he ſhow you that paper?——He ſhowed me a paper. I aſked to ſee it, that I might know the contents; he refuſed to ſhow it me, and put it into his pocket again.

So you do not know the contents of the paper?——*I did not then; I have ſeen the paper in court ſince. (f)*

How are you ſure it is the ſame paper?——I am not ſure it was the ſame.

He ſaid he came to weigh ſome tea, what did he do then?——He laid hold of a parcel of tea, and aſked if there

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(e) The ſame certificate proves that *Lloyd* well knew what Office the defendant belonged to; but even granting for a moment that he did not, can any one believe that the defendant would anſwer in ſuch a manner, or uſe the words of "*no place at all*" after ſhewing his Commiſſion and telling his name?

(f) Mr. Lloyd having admitted that the defendant, upon examining the tea in queſtion, told him his name; his evidence afterwards intimating that he did not ſhew him his Commiſſion, ſo as to enable him to know the contents thereof, needs little comment; ſince every one will admit that his refuſal ſo to do, after having made him acquainted with the *moſt material* part thereof, could have availed but little; and he believes he can ſafely appeal to every one, the leaſt converſant in matters of this kind, that in all caſes, ſimilar to the preſent, it is the *very firſt* thing demanded; and to every one who knows Mr. Lloyd's *experience, &c.* therein, that *he* would not have been the *moſt backward* ſo to do, ere he ſuffered him to examine the ſaid tea. But the defendant would aſk Mr. Lloyd, ſince he ſwears he did not ſee it at that time ſo as to be able to know the contents of it, in *what court* it was he afterwards learnt them, becauſe it will be readily admitted by all, that it could have been in *no other* than the Old-Bailey, and he believes he can ſafely appeal to every one of his readers that were preſent, he did not ſee it there.

there was a permit for that tea? I told him there was; and ſhowed it to him; he then inſiſted upon weighing it; and we put it into the ſcale and weighed it, it weighed twenty-ſix pounds; it was green tea. After we had weighed it, and found it agreed with the permit, and had taken it out of the ſcale, he examined it by the candle to ſee that it was green; he then put it in the ſcale to weigh it again; then he took out a ſmall quantity to examine, *and took out a large quantity in the other hand*; *(g)* we detected it in his hand afterwards; when we detected him with the tea, he threw it down, ſome on the floor, and ſome in the bag, and drew a knife.

Who was in the ſhop with you?——There was my wife.

For what purpoſe did he draw a knife?——*That I cannot tell.*

What ſort of a knife was it?——*A long pen-knife. (h)*

Did

(g) Here is another part of the evidence ſo very improbable, as to defeat its own malignity: for every perſon, the leaſt converſant in matters of this nature, muſt know, that the taking of one, two, or three handsful of tea out of a whole bag, (containing twenty-ſix pounds weight) could not alter or diminiſh it ſo as to render it liable to ſeizure, by its *variation* from the permit.—Here Mr. Lloyd ſeems to have given up his entire knowledge of the trade, unleſs he affected this *ſeeming* ignorance by way of *aggravating* the defendant's guilt, in the inſinuation that he wanted to rob him of a handful of tea as well as his money.—But it may be proper to notice, that Mr. Lloyd's proving that the defendant confined his examination to this *ſingle bag of tea*, and that he did not attempt to ſearch any other part of Lloyd's goods or ſhop, is *full evidence* that the defendant *ſaw Lloyd carry this bag into the houſe*, otherwiſe, it is well known, that he *could not have ſeized that bag*, had it been *really ſmuggled*, without firſt weighing and examining *all the other teas* in the ſhop. For the truth of this, the defendant appeals to every perſon in the leaſt converſant in the buſineſs.

(h) It is really difficult to determine what could be Mr. Lloyd's motive for this introduction of a knife into his miraculous ſtory,

 eſpecially

Did he ſay any thing when he produced the knife?——*No*; he kept it in his hand open; my wife, who was behind the counter, was *alarmed*; ſhe was ſerving the man that came with him; ſhe ran out of the ſhop.

Did he and the other man ſpeak to each other?——The priſoner, while he had the tea in his hand, called to him to aid and aſſiſt him in ſeizing that tea, when he had made it *diſagree* with the permit, by taking a *handful out*; by which means the ſcale turned the other way.

Did you make any reſiſtance?——Yes, I did, when he was detected by my wife with the tea in his hand; I did not ſee it in his hand at firſt; when he threw the tea down, and had the knife drawn in his hand, as I ſaid before, my wife ran out frightened, and left the till open; ſhe went over the way to call an oppoſite neighbour; the priſoner ſtood with the knife open in his hand, cloſe againſt the counter; he looked over the counter, which I underſtood was to ſee if there was any more tea behind it; then he clapped his hand into the till, and took ſome caſh and a bank note.

D

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eſpecially as he does not *ſwear* that the defendant attempted to *murde* either himſelf or his wife with it, which is an *omiſſion*, or rather a *defe* in the evidence, truly ſurprizing.—But it is equally aſtoniſhing, th Mr. or Mrs Lloyd, terrified as they muſt have been at the ſight of *long naked pen-knife*, drawn and opened by ſuch a *deſperate* robber as t defendant is repreſented, ſhould remain perfectly *ſilent*, or that the did not *inſtantly* call the watch, (who were then aſſembled) or ſom other aſſiſtance, inſtead of Mrs. Lloyd's going *over the way* "to c a neighbour."——In this inſtance Mrs. Lloyd ſhewed great want *conjugal tenderneſs*, by leaving her huſband expoſed to the aſſault of armed ruffian, who, had his deſigns been either wicked or blood would certainly have executed his purpoſe in *half the time* ſhe was g ing over the way and talking to her friend.—*They* really deſerve, truſts, no credit for ingenuity, in the uſe *they* have made of this knif and if ſuch an inſtrument of death had really appeared in the hands the defendant, it is more than probable that Mr. Lloyd would n have ſo *courageouſly* purſued him in the dark ſtreets, after he had ſto by and ſeen him rob him, even without reſiſtng.

Do you know what caſh he took out? (i)——I know he took to the amount of 4*l.* 10*s.* by the quantity that was in the till afterwards, and from the quantity that was in it before.

Where

(i) Had the defendant been ſearched, and the property found upon him, this queſtion, in all probability, would not have occurred, as in that caſe it might have been deemed very immaterial —But that not having been the caſe, it was not only highly proper, but what was *natural* to be *expected* by Mr. Lloyd; and expecting, what he knew too well the importance of, than between the 20th of November, and 9th of December, not to be fully prepared for, as the readineſs with which he anſwers it, above almoſt every other, fully demonſtrates.—But admitting it otherwiſe, and that the defendant did really take the property, it will ſtill be deemed a little remarkable, conſidering it is ſaid to have been taken out of a place to which he had not only to reach over a counter, whereby, it will be believed, he could not very well *ſee* what he took; but in which, it is to be imagined, there was *halfpence* as well as *gold* and *ſilver*, and conſequently, in the haſty and indiſcriminate manner, in which it is repreſented he took it, was liable to have taken them as well as the other, that he ſhould not have done ſo.—Or admitting there was no halfpence in the till, or if there was, that notwithſtanding the impediment of the counter, and his hurry, he could clearly diſtinguiſh the one from the other, and would of courſe leave them, whilſt the other was to be got at, that the ſum (excluſive of the note) ſhould have been *exactly* 4*l.* 10*s.* without a *ſingle* ſhilling or ſixpence either over or under.—He is as ready as any one to believe, in ſuch a caſe, ſuch a thing poſſible; but he is inclined to think there are very few but will conceive it highly improbable. He is well aware that Mr. Lloyd ſwears "there might have been ſome few ſhillings more, he "cannot be poſitive;" but then as Mr. Lloyd counted it ſuch a very little time before, whereby he was enabled to know the exact ſum, he certainly might have been poſitive. Not to mention the improbability that the ſum ſworn to have been previouſly in the till, was the ſole receipt of that day, as the defendant cannot undertake to ſpeak to that circumſtance particularly; but this he preſumes to aſſert as a *certainty*, that there are Grocers, within his knowledge, though they are not *under the neceſſity of making uſe of deceptions, to ſet off their ſhops by a number of empty tea-cheſts, and a repreſentation of a number of ſugar-loaves on their ſhelves, which, when examined, proved nothing more than common dirt; or who, in the Exciſe-Books of their ſhops, inſert daily*

more

When had you told it before?——At nine o'clock.

There was 4l. 10s. leſs than there was at nine o'clock?——Yes.

You do not know, I ſuppoſe, what ſpecies of money it was in?——Yes, I do; there was in the till, at nine o'clock, five guineas, three half guineas, and about 1l. 13s. or 14s. in ſilver.

What was there left after the priſoner had put his hand into it?——Two guineas, two half guineas, and about 18s. in ſilver.

Had you paid any money during that time?——No; not any at all.

Then there was miſſing about three guineas, a half guinea, and 16s.?——There was.

That you are poſitive of?——That I am poſitive was miſſing; there might be ſome ſhillings more, I cannot be poſitive how much; there was a bank note in the till.

Do you know the number of the note?——I do.

Did

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more than either a half, or three-fourths of a pound of tea, would not think 8l. 9s. 6d. (the ſum ſworn to have been previouſly in the till, excluſive of the note) very inconſiderable, for *one day's* receipt, in the retail trade.

It is very true indeed, of the perſons here alluded to, who book no more daily than the above quantities of tea, that their Exciſe-Books, *even if they did not ſell any other articles*, are not the certain and infallible criterion whereby their trade and receipts are to be judged, becauſe, it is well known, *there are many concurring cauſes to prevent them, though ſworn to as the law directs, being depended on.* But ſurely it will ſtill be allowed, if that is the caſe, *and another kind of trade* is carried on in their ſhops, whereby the receipts therein may be *ſomewhat* augmented, to be very improbable, whilſt it exhibits ſuch a *ſcene of poverty*, as above ſtated, that they can be very great. But leaving that to be judged of by the reader as it may, the defendant believes it is not quite reconcilable with the common uſage of *ſhopkeepers* of *either* Mr. Davis or Mr. Lloyd's *claſs*, to keep their *bank notes*, or even quantities of gold, in an *open till*; and as Mr. Lloyd ſwears he counted his treaſure at nine o'clock that night, it is a little remarkable he did not place it in greater ſecurity.

Did you ſee that in his hand?——Not particularly; I ſaw him put in his hand and take out as much as he conveniently could. *The note was for* 10*l. It was No.* H 233, *dated the* 28*th of May*, 1779, *payable to Thomas Hughes.*

That is the account you took down in your account book?——It is.

Had you ſeen that note at nine o'clock?——Yes.

Had any body been in the ſhop that could have acceſs to the till but you and your wife?——No; not one in the courſe of that time. As the priſoner took it away he dropped ſome in the till, and ſome on the counter; then he ran out of the ſhop as hard as he could; the other man ſtaid in the ſhop, when the priſoner went out, and ſtood in my way, as I ſuppoſe, that I ſhould not go out after the priſoner. I did not think, at that time, that he ſtood purpoſely in my way, but that it might be done through ignorance. I followed the priſoner, and endeavoured to kick up his heels; I kept in ſight of him; *I was not more than five or ten yards from him at the fartheſt diſtance.* I took him in Gracechurch-Street. The ſhop is in Fenchurch-Street. I took him after running a good chace after him. He got away from me, and ran round the coaches, and wanted to get up White-Hart-Court, but was interrupted by ſome gentleman, and I ſecured him. There was a conſtable on the ſpot, and *he inſiſted upon my delivering him into his charge.*

Did you ſearch him? (k)——*No; the conſtable inſiſted on my*

(k) This will be deemed the moſt material queſtion put on the part of the defendant, during the whole trial; and Mr. Lloyd's not being *further preſſed* to account for this very extraordinary omiſſion, can only be accounted for by the very poſitive manner in which the court perceived he had ſworn to the taking of the property.—But the defendant apprehends it may, without tranſgreſſing the line of either truth or buſineſs, be confidently affirmed, to be the conſtant rule and practice, where a perſon is thus taken in the *direct purſuit* after a robbery, to *ſearch them*, as the *firſt ceremony*, and that for the two ſtrongeſt reaſons in

my letting him go to him. I did not underſtand it. It was half after ten o'clock when I got home again. The conſtable

in the world; viz. the firſt to *recover* the property ſtolen, which is the natural wiſh of the perſon robbed, and the ſecond, to be in poſſeſſion of the *ſure proof of guilt*, and indiſputable ground for conviction. But in the preſent caſe, either from Mr. Lloyd's *not being the owner of it*; or becauſe as much gold and ſilver as the defendant could hold in one of his hands (as the ſum then could not be known) with the probability of a ten pound bank note, was *no object to one in his circumſtances*; or becauſe "*he did not underſtand it*" or if he did, but which cannot be preſumed of ſo *ſimple* a man as Mr. Lloyd, *particularly ſince he has ſworn it*, the conſtable (though it was what was never known to have been done in a ſimilar caſe) "*inſiſted* on his being deli-" vered to him" without it; and the defendant was *charitably* and quietly permitted to *keep* the ſpoils of villainy, to defray the expence of the proſecution, which was afterwards *honeſtly* preferred againſt him. The idea is too pregnant with abſurdity to give it another moment's attention, and is *alone*, the defendant truſts, ſufficient to ſhew that the grounds of this proſecution aroſe, not from any dread he apprehended of his being amenable to the laws, but ſolely from what he has ſtated in the caſe and his defence; viz. the apprehenſions of that diſcipline, not unuſually, conferred by a mob, enflamed by prejudice, againſt officers of the Revenue. But if it ſhould not, it will at leaſt be allowed, had he been guilty of the charge, *that eſcaping, at this time, could have availed but little*, ſince Mr. Lloyd, if he had not known him before, but which the defendant apprehends, from what is ſtated in one of the certificates hereunto annexed, few will doubt, was *now* in poſſeſſion of his name and profeſſion, by which he conſequently would have been able to have diſcovered him.

It will alſo be thought ſomewhat extraordinary (and deemed *ſome proof* that the *whole tranſaction* related therein was true) that the defendant, after having heard it ſworn in ſo poſitive a manner that he took the property, ſhould have ſtated in his defence the *very ſtrongeſt* circumſtance that could poſſibly make *againſt him*, inaſmuch as it went to *confirm* his having taken it, viz. his running. —He certainly might have found *a better plea*, than the *one*, which inſtead of *exculpating* himſelf from the charge, could, as much as any it was *poſſible* for him to mention, *conſtitute his criminality*; and it is ſhewn, by the other certificate annexed, that a conſiderable time, prior to this proſecution, there exiſted, on the part of Mr. Lloyd, an *implacable enmity againſt officers of the Revenue*; and that he was ſo far from concealing

table took him to the watch-houſe, and a man went home with me.

Croſs

ealing it, that he omitted no opportunity of ſhewing it, inſomuch that *o one* of them could deem himſelf ſafe in doing his duty in this ſhop.

That being the caſe, the circumſtance of a Permit being with the tea examined, at this time giving him an advantage over the defendant, prented a favourable opportunity for his purpoſe, and will be deemed to have been ſufficient to cauſe the defendant, who from having frequently and for ſome conſiderable times together done buſineſs in the office, where the two officers who ſurveyed this ſhop were, and to which office alſo Lloyd had frequent intercourſe, could not have been ignorant of what is ſet forth in the ſaid certificate, to have his apprehenſions. He ſeeing, therefore, Mrs. Lloyd go out of the ſhop, it may readily be ſuppoſed, naturally ſuggeſted the idea that ſome deſign was going forward againſt him, as he truſts, from what has and will be ſhewn, it will appear it could not have proceeded from any danger ſhe could have apprehended herſelf to have been in from any uſe that he made of the knife, that has been introduced into their evidence, or even threats, more eſpecially when it is conſidered there were preſent to protect her, her huſband and another man, as it not only appears from their contradictary evidence reſpecting him, he could not have been an accomplice of the defendant's, but who, it is very evident, they did not, at that time, conceive to be ſo, or why did they not take him alſo into cuſtody?——Their not having done ſo, would alone, in a great meaſure, confirm what has been already ſtated, and ſhew that the defendant was the *ſole object* of their deſigns; did not their evidence, when conſidered further, irrefragibly demonſtrate it.

But to dwell a little longer upon how far the knife was the cauſe of Mrs. Lloyd's quitting the ſhop:—And firſt it clearly appears that the perſon called an accomplice of the defendant's, viewed in any light whatever, cannot come under that denomination; it will, he truſts, in the next place, not only be deemed extremely improbable that he ſhould have attempted the outrage in queſtion, *unſupported*, in a public ſhop, at ſuch a time, oppoſed to *three perſons*; but that if he had really been guilty of ſuch a procedure, which it is ſcarcely poſſible to imagine the moſt daring and accuſtomed to ſuch practices would, in ſuch a ſituation, have attempted, that it would, when reflecting upon their evidence in other reſpects, have been paſſed over in ſo *ſlight* a manner. It is far more reaſonable, he apprehends, to think the circumſtances would, *at leaſt*, have been

ſtated

Croſs Examiuation.

This was about ten o'clock at night?——Yes.
You had been at home from nine to ten?——Yes.

You

ſtated as they *really happened*, if they had not been *blazoned* forth in the moſt glaring colours.—But Mr. Lloyd does not only decline ſwearing that the defendant made any uſe, *whatever*, thereof, but on the contrary ſwears, that "*he did not really know for what purpoſe he produced it*;" and Mrs. Lloyd although ſhe ſwears it was the ſole cauſe of her going out of the ſhop, and of preventing her taking any notice of the till, until her huſband returned from purſuing the defendant; in like manner does not only not ſwear to the defendant's having uſed any threats therewith, but on the contrary alſo ſwears, that "*ſhe did not ſee him make any uſe of it.*"

But their deſigns are ſet in a ſtill ſtronger point of view, and evidently ſhews that Mrs. Lloyd's not having taken notice of the till, muſt have ariſen from *another cauſe*.—Mr. Lloyd ſwears that upon his wife's returning to the ſhop, and the defendant going out of it, ſhe laid hold of his coat. Now as this ſtep of Mrs. Lloyd's could have proceeded from only two cauſes; viz. a ſenſe of the injury done her by the knife, or that the accuſed had perpetrated the robbery; and it having been ſhewn that it could not poſſibly have ariſen from the former, it is very evident to the latter it muſt be aſcribed.——That being the caſe, a queſtion naturally ariſes to aſk Mrs. Lloyd, ſince it has been *poſitively* ſworn that the robbery was committed during her abſence from the ſhop, and of which ſhe, conſequently, could not have the leaſt knowledge or intimation, how ſhe could have been impelled to it from that circumſtance? It being impoſſible, therefore, to aſcribe this act of Mrs. Lloyd's to either of the foregoing motives, nothing can be more evident than that its only ſource was the premeditated ſcheme already often mentioned.

The evil intentions, then, of Mr. and Mrs. Lloyd againſt the defendant as a Revenue officer, being, he truſts, clearly and fully eſtabliſhed, it ſurely cannot be deemed otherwiſe than natural, when he ſaw thoſe deſigns were about to be carried into execution, that he ſhould endeavour to avoid them, by quitting the ſhop, as ſpeedily as poſſible; or that when, in ſo doing, he found himſelf obſtructed by the act of Mrs. Lloyd's juſt mentioned, whereby he was confirmed in what he had previouſly apprehended, that he ſhould the more ardently deſire to effect it.—Or when to that act ſucceeded,

You had not been out of the ſhop?——No.
You had not ſeen this Hudſon before that evening?
——No. *Had*

a party of the populace following him, with Lloyd *at their head*, can it be wondered that he ſhould, to avoid the tumultary ill-treatment he had every reaſon to apprehend awaited him, adopt the meaſure he then did, which has ſince been wreſted into a demonſtration of his guilt. Candour will allow that every man, in ſuch circumſtances, (the renowned champion, and incomparable knight, Don Quixote alone excepted) would have provided for his ſafety by the ſame means.

Mr. Lloyd proved, however, *too ſtaunch a blood-hound* to ſuffer his prey thus to elude him; fearing, by the defendant's eſcape, he ſhould be diſappointed of his wiſhed-for revenge, he found himſelf under the neceſſity of endeavouring to prevent it. To that purpoſe (as flight is generally held a preſumption of guilt) the circumſtance of the defendant's running, furniſhing ample proof of ſome criminal act, and juſtifying a charge of that nature, a charge of robbery readily ſuggeſted itſelf to Mr. Lloyd, as the moſt effectual means whereby the purſued would be put into his power, and the toils of the chace amply rewarded by the glorious ſport of ſeeing him groaning under a comfortable portion of mobbiſh diſcipline. What has ſince happened was a refinement on Mr. Lloyds former malice, and what was rendered neceſſary, (if ſuch an attack upon what he truſts will appear an innocent man's life and character muſt be extenuated by that epithet) through the events which occurred in the proſecution of it.

The defendant was no ſooner overtaken, than he was ſurrounded by a mixed aſſemblage of people, every one of whom, as is natural in thoſe occaſions, being anxious to enquire the cauſe of his detention, it cannot be ſuppoſed the prime purſuer was wanting in returning ſuch replies as tended to inflame their paſſions againſt the purſued; and as being an Exciſe officer, of itſelf, is well known to be, at all times, ſufficient, in ſuch a ſituation, to procure a ſevere diſcipline; the idea of *thief*, in the preſent caſe, being added thereto, the defendant's ſituation may be eaſier conceived than deſcribed.—And as a leſs diſturbance than the one now deſcribed, is well known to be fully ſufficient to collect multitudes, whoſe vociferations, at length, reach the ears of the peace officers, and ſummon them to haſte to the ſcene of confuſion that happened in the preſent caſe. Upon one of thoſe appearing, the defendant, as the only means he could then hope for to prevent further violence, immediately put himſelf under his protection; when Mr. Lloyd having in the hearing of ſo many perſons made the charge, finding he

Had you been ſtopped by any body that afternoon with a bundle?

had proceeded too far to recede, unleſs he was content to ſubject himſelf to that diſcipline he had *charitably* intended for the defendant, or not being yet ſatiated with revenge, perſiſted therein, and inſtead of attempting to ſearch the accuſed, immediately retiring; the conſtable, notwithſtanding the manner he was delivered to him, conſiſtent with his duty could not avoid keeping his charge, nor conſequently (in doing which it is not to be ſuppoſed he was wanting in aſſiſtance by the mob) taking him to priſon.

In the mean time Mr. Lloyd having returned home, and reflecting he had left the defendant in cuſtody, it occurred to him that it would be neceſſary to ſet up ſome *tale of a robbery*, to *juſtify* what he had done. The recollection that he had, but a very ſhort time before, commenced a moſt litigious ſuit againſt two other officers of Exciſe (one of whom belonged to the ſame office in which one of the certificates hereunto annexed ſhew the defendant had done buſineſs) and by *mere dint* of ſwearing, recovered 50l. and coſts from them, ſuggeſted the abſolute neceſſity of *vindicating*, for fear of being proſecuted for what he haddone; a *home* proſecution, therefore, became the event of this deliberation. Mr. *Lloyd*, accordingly, went the *next day* to *Mr. Davis*, and *then acquainted* him with his *loſs*; and the defendant was, in conſequence, indicted for ſtealing a ten pound bank note, *the property* of Mr. Davis, although *he* ſwears he knew *nothing* of the property; and although both Lloyd and his wife poſitively prove that Mr. Davis had not any *right*, *intereſt*, *or property* in this note. It would, the defendant preſumes, be affronting the judgment of the moſt credulous, to purſue this remark further; the whole relation is prepoſterous, and ſuch a compound of falſhood, folly, and abſurdity, as bids defiance to criticiſm.

Such then have been the proceedings of this unprincipled man Lloyd, and ſuch his rancour againſt perſons whoſe only crime conſiſted in a faithful diſcharge of that duty their ſuperiors had repoſed in them; and what farther aggravates the injuries the defendant has received, as well as the indignities other officers of Exciſe have experienced from the ſame quarter, is the recollection that the unworthy treatment they have endured was dealt out to them by the hands of a *Caitiff*, who has long been *ſculking* under *fictitious appearances*, for purpoſes that have appeared too obvious to need being repeated.

bundle?——*(l) I brought home this parcel of tea in the afternoon, from Holborn, between ſeven and eight o'clock.*

Had you been ſtopped by no man in the way as you was bringing that home?——No, I was not obſtructed by any body.

You came home then between ſeven and eight o'clock, and was never out afterwards?——I do not recollect that I was.

This tea was in a bag?——Yes.

When the priſoner came in he ſaid he wanted to look at the contents of that bag?——*Yes. (m)*

Did

(l) The *caution* with which Mr. Lloyd anſwers this queſtion, is well worthy remark; and his *evaſive replies* to it, together with his croſs examination, exhibits a knowledge in the *art* of evidence, which would do credit to the greateſt veteran that ever attended Weſtminſter-Hall.—The queſtion put to him is as plain, ſimple, and direct, as ever was put to a witneſs; viz. "Had you been ſtopped by any body that af-"ternoon with a bundle?"——Anſwer. "I brought home this par-"cel of tea in the afternoon from Holborn, between ſeven and eight "o'clock."

Could the moſt practiſed Old-Bailey evidence more *ably* evade the direct tendency of the above queſtion?—Indeed it would be doing Mr. Lloyd injuſtice to let the *tendency* of the evaſion eſcape ſome farther notice.——At the time the queſtion was put, Mr. Lloyd did not know but the defendant had *evidence* ready to prove that he had been ſeen in the Borough, and in converſation with the defendant; he dreaded a trap, and ingeniouſly avoids giving a *direct* anſwer to the queſtion, until he diſcovered the weakneſs of his enemy.—But when he found there was *not* any evidence to confront him, he *boldly* goes a ſtep farther, and ſwears "that he was not obſtructed by any body;" and although this was another evaſion from the queſtion, it was the truth, for really the defendant did not obſtruct him, but went with him peaceably from London-Bridge into his ſhop in Fenchurch-Street, as he conceived to be his duty, *knowing* the man, and the ſuſpicious appearance of the parcel.

(m) Mr. Lloyd's anſwer to this queſtion merits the reader's moſt particular attention, although it conſiſts of only the monoſyllable *Yes.* Here Mr. Lloyd admits that when the defendant went into his ſhop,

Did he weigh any thing beſides that bag?——*No.*

He told you he was an Exciſe officer?——*Yes.*

And that his name was John Hudſon?——*I think he ſaid ſo.*

Did this other man come in with him?——*No, he came in before him. (n)*

All

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he wanted *to look at the contents of that bag only.*——It is now ſubmitted to every man that has the leaſt knowledge of either the duty or power of an Exciſe officer, or with buſineſs of this nature, whether the defendant *could* or *would* have deſired to ſee the contents of that *particular bag*, unleſs he had *followed* Lloyd *with it*, or *ſeen* it going into the houſe, and made the demand *before it was put out of his ſight*, or placed, or mixed with other teas or goods? Or whether, if this had not been the caſe, he would have confined his examination to that *ſingle* and *identical* bag? which Lloyd himſelf *admits* was ſtanding in ſuch a manner as to be *particularly* noticed by the defendant upon his going into the ſhop, and plainly proves that it was juſt brought in at the time, and in the manner ſtated by him.—Nor can it be ſuppoſed that it would, in every reſpect, (as is alſo admitted) have correſponded ſo *exactly* with the permit, upon the defendant's going into the ſhop, in the accidental manner deſcribed; or that Lloyd would have let it remain in the manner in which it was found by the defandant, had it been brought home between ſeven and eight o'clock; he would certainly have put it in the uſual place with other goods, and not have left it ſtanding *alone* near two hours.

(n) Here Mr. Lloyd ſwears, that the pretended accomplice in this *outrageous robbery*, went into his ſhop *before* the defendant; and being then aſked "Whether all the reaſon he had to *ſuſpect* his being an ac-"complice, did not proceed from the defendant's calling upon him to "aſſiſt him," he again dexterouſly evades the queſtion; but by way of anſwer gives an extraordinary reaſon for thinking him an accomplice, viz. "*He* (the accomplice) *promiſed to be an evidence againſt* "*the defendant.*"——Whatever may have been Mr. Lloyd's motive for evading the above queſtion, and giving this paſſage by way of anſwer, may be difficult to aſcertain; but it may be here very material to aſk him *when* and *where* this *civil accomplice* made this *promiſe* that he would appear as an evidence againſt the defendant? becauſe if what Mr. Lloyd has before ſworn *can be credited*, it is utterly *impoſſible* that any ſuch promiſe or converſation could have paſſed between Mr. or Mrs. Lloyd, and their *new made friend*, either *at the time*, or imme-

diately

All the reaſon you had to ſuſpect him was the priſoner's calling upon him to aſſiſt him?——*He promiſed to be an evidence againſt the priſoner, but never came any more.*

Did he tell his name and where he lived?——*No.*

You did not enquire after him?——*No, I did not ſee him after that evening; he promiſed my wife, while I was out, that he would appear againſt the priſoner.*

When the priſoner drew his knife, he did not tell you why he drew it, did he?——*No*; we were diſputing about the tea he had in his hand; I bid him put it down; he had the knife in his hand.

Your wife ran out of the ſhop?——Yes.

Who was left in the ſhop when your wife went out?——I, the priſoner, and the other man.

How far was you from him when he put his hands in the till?——I was behind the ſcales, at about *four yards* diſtance from him.

He

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diately after the robbery; for Mr. Lloyd, in the foregoing part of his evidence, (ſee p. 29) ſwears "that when the defendant "ran out of his ſhop, the pretended *accomplice* ſtood in his way," (meaning that he deſignedly prevented his purſuing the defendant); but yet he was ſo expeditious as not even to loſe ſight of him; and both Mr. and Mrs. *Lloyd* ſwear that the accomplice ran out inſtantly after Mr. Lloyd, and did not return afterwards.—It is therefore clear to a demonſtration, that no ſuch promiſe, or any converſation, could paſs between the accomplice and Mr. or Mrs. Lloyd *that night*.—But as it would *be cruel* to charge Mr. Lloyd with *falſe ſwearing*, it muſt be taken for granted that the promiſe of the accomplice to appear as an evidence gainſt the defendant, was made the next day, or ſome *ſubſequent* meeting; it is therefore very ſtrange that Mr. Lloyd did not then obtain his name and addreſs, and get him to attend on the trial, to prove the defendant's guilt.—But Mr. Lloyd is a *ſimple man*, and he ſwears he did not enquire farther after this very friendly accomplice; and yet the unfortunate defendant has publiſhed two thouſand hand bills, and publicly advertiſed in the newſpapers, and offered a reward of ten pounds for the diſcovery of this *very man*, who *declared* he would appear *againſt* him.

He ran out of the ſhop, and you ran after him and ſecured him; where was he carried to afterwards?——To the watchhouſe, that night, I believe.

When you came back you counted up what you had loſt?——Yes.

This was Saturday night. Did it never occur to you or your maſter to go and ſearch *(o)* this man for the bank note?——No.

How came you to have this perfect recollection of the note?——*I had it down; I put it down that day; I had received it that day of a Mrs. Lawrence.*

Did you give this deſcription of it to the people at the Bank?——Yes; the number of it and the date. (p)

Look

(o) This queſtion, though doubtleſs well intended, will ſhew what little attention the defendant's council gave, *if not to the whole of his caſe*, at leaſt to the former part of Mr. Lloyd's evidence. For had they recollected how he had ſworn that he did not ſearch, or cauſe the accuſed to be ſearched *immediately*, at the time the robbery is ſaid to have been committed, they would not have demanded why he was not ſearched, ſo long afterwards. The fatal neglect to the defendant of a ſearch at that time, and when he had not been a *moment* out of Lloyd's ſight, has been already noticed; but a ſearch on a ſubſequent day could anſwer no rational purpoſe whatever, to either party, as the only ends for which it could poſſibly have been made by any one, were not to have been expected from it; therefore no blame is to be imputed to Mr. Lloyd for the omiſſion. For as it was natural to ſuppoſe had the defendant been ever ſo guilty, he would not have kept ſuch indiſputable evidences of criminality in his poſſeſſion, conſequently the property was not to be recovered thereby, nor matter furniſhed for his conviction; ſo neither could it tend any thing towards his exculpation. Upon the whole, it ſeems altogether nugatory to aſk the witneſs why he did not *idly* ſearch the priſoner, at ſo remote a period, whom he might, and in common ſenſe *ought*, to have ſearched at the *very inſtant* of caption.

(p) The contradictions and inconſiſtencies which appear in this part of Mr. Lloyd's evidence, with reſpect to his having given a deſcription of the note at the Bank, compared with the preceding part thereof, cannot fail to ſtrike every unprejudiced reader, and tend to invalidate the whole of his teſtimony.

In

Look at that paper. *(ſhewing a paper to the witneſs) Is that the deſcription you gave of it at the Bank?*——*Yes, it is, I believe.*

Court,

In the firſt place he poſitively, and without the *leaſt* heſitation, ſwears to having given the number and *date* of it *only*: And upon being afterwards ſhewn a paper, viz. the advertiſment of it, which does not contain the *date*, nor the name of the perſon to whom it was payable, (conſequently only the ſum and number of it) he with the ſame readineſs ſwears to his believing *that* to have been the deſcription he gave of the note. But be it which [redacted] it may, (as there is *no doubt, ſince Mr. Lloyd ſwears ſo*, it was either one or the other; *reverence* for his oath requiring us to credit thus much) from its being ſo very imperfect, it is natural to imagine, it was the only one in his power to give, and may account for its not having been checked on the Bank books by Mr. Lloyd, a particular deſcription being always neceſſary for that purpoſe, as it appears by thoſe books to have been checked only by the defendant's attorney, Mr. Chetham, of Falcon-Square, in whoſe name it ſtill remains checked, having never been preſented for payment. But then it muſt not only be thought ſomewhat extraordinary that Mr. Lloyd ſhould not have remembered which of thoſe two deſcriptions it was he gave; but at the ſame time it may not be improper to aſk him how he came to be ſo much at a loſs to give *either* of them, and in ſo ſhort a time as between Saturday night, and the ſucceeding Monday morning to forget, that he could have given a *full one?* For if what Mr. Lloyd had, but a few minutes before, ſworn (ſee page 29) can be true, he had entered in his book every particular relative to the note, ſuch as its value, number, date, and to whom payable.

Now it is but reaſonable to ſuppoſe, that a perſon having actually loſt a bank note, (as one of the moſt probable means to recover it) upon going to the Bank would have taken ſuch book, or at leaſt an extract from it of all its particulars, with them, in order to enable them to check the loſt note; every one knowing that going thither on ſuch an occaſion, without doing that, anſwers no manner of purpoſe, much leſs giving ſuch a *vague* deſcription as Lloyd ſwears he did.—But that Lloyd, or the perſon or perſons who accompanied him thither, (as he ſays "*we* did not give a full deſcription of it") did not carry ſuch book, or particulars, is certain; and it is incumbent on them to account for ſo ſtrange a neglect.—Mr. Lloyd ſeems, indeed, to have been aware of being likely to be preſſed to account for ſo material an omiſſion, and for ſo imperfect a deſcription having been given in the advertiſement; but

[redacted] th-

Court. When did you give that deſcription?——On the Monday.

That

the only reaſon his depoſition offers for it, is, "I did not underſtand it, for my part, they (meaning the clerks or perſons to whom he applied at the Bank) put it down for the printer to print it." But can the moſt credulous believe that any man in buſineſs upon taking a bank note and *entering* the *particulars* of it in a book, ſhould not *underſtand* that the natural uſe of ſuch *particulars* was to refer to them in caſe of any accident to the note, and that he would not have done ſo upon his going to the bank to give a deſcription thereof.—But admitting (ſince there can be no more doubt, as Mr. Lloyd is a *ſimple* man, of his ignorance in this particular, than in that of his not ſearching the defendant, *particularly as he has alſo ſworn it)* that he did not underſtand it, it muſt appear very extraordinary, that a man, conſcious of his own ignorance of the buſineſs, would take a perſon, or perſons, with him to the Bank, equally ignorant with himſelf; yet this, we are deſired to believe, was the caſe.

But to inſiſt a little longer upon the myſtery of Mr. Lloyd's imperfect deſcription of the note at the bank; whilſt, as he ſwears, his book might have furniſhed him with a very perfect one. If then that was really the caſe, and ſince it does not appear that he had any *other means whatever* of deriving any account of the note, but from *this book*, nothing is more evident than that he *muſt* have conſulted it for the account he ſwears he did give at the Bank; and why then, upon ſo doing did he not extract out of it *all* the particulars, as well as a very *ſmall part* of them. But admitting that Mr. Lloyd delivered only what he ſwears (but what that was it is impoſſible to collect from his evidence) there ſurely was no neceſſity for the people at the Bank to put them down for the printer; his own account, imperfect as it was, (ſeeing the advertiſement was ſo too) being ſufficient.

It being, therefore, manifeſt that the idea of the people at the Bank having put the particulars, he has ſworn to, down for the printer cannot be ſupported on any other ground than that of his not having given any deſcription.—Suppoſing him to have gone there, it would be obliging the reader if Mr. Lloyd would inform him how the clerks at the Bank became ſo *readily* acquainted with the particulars of *this note* above every other, as to be able to put down even what he has ſworn they did? and ſince they were capable of deſcribing it in *ſome degree* without having any particulars from him, why did they not do it *thoroughly*, by exhibiting at once a *compleat deſcription*; ſince they were equally capable of one as the other. The full deſcription would, doubtleſs, have coſt them as little as the imperfect one they are ſaid to

That contains neither the date of it, nor the name of the perſon to whom it was payable?——*I did not underſtand it, for*

have given; and their not having given ſuch a one, can only be accounted for by ſuppoſing them as ignorant, in *reality*, as Mr. Lloyd *affected* to be, that is, not knowing, in advertiſing a note, it was neceſſary to give a full deſcription thereof.

But the improbability of Mr. Lloyd's having ever gone to the Bank, concerning the note, is ſet in a ſtill ſtronger point of view. It is well known to be a uniform queſtion, put by the clerks at the Bank, upon a perſon applying to them concerning a note, to aſk for the particulars of it; and, to ſuch a queſtion, it certainly would, upon being reminded thereof, have naturally occurred to Mr. Lloyd that he was in poſſeſſion of the particulars at home, and then they would not, even if it had not been ſhewn they could not, have furniſhed him with an *imperfect* deſcription, but would have adviſed him to refer to his book.

Such then being Mr. Lloyd's evidence relative to his going to the Bank and deſcribing the note, the reader is left to eſtimate the probability of that, and from thence to judge how far he loſt it, and, conſequently, of the defendant's having ſtole it. But whether Mr. Lloyd did, or did not, go to the Bank, it muſt be allowed very extraordinary that the note was not better deſcribed in the advertiſement, ſeeing how well qualified his oath declares him to have been, of furniſhing every particular concerning it. From this circumſtance is deduced, not only an additional proof of the falſity of his having had ſuch particulars down in his book, but it fully ſhews that he was not very *anxious* about the *recovery* of it.

Extraordinary, however, as Mr. Lloyd's evidence reſpecting his deſcribing the note at the Bank, and the manner in which it was adverſiſed, appears, there is one way of naturally accounting for it, and alſo for the perfect deſcription that was given of it in court. The proſecution was either juſt or unjuſt. If, then, there is any one can believe it was *juſt*, it will, the defendant apprehends, appear exceeding ſtrange, how any man could, in ſuch material and early ſtages of buſineſs as going to the Bank and advertiſing the note, omit thoſe neceſſary particulars of it—and yet *perfectly* recollect them in evidence ſo long afterwards. But upon the idea that the proſecution was *unjuſt*, the wonder ceaſes, and the conduct of Mr. Lloyd is ſuch as any one, in ſuch circumſtances, would naturally have purſued. Having loſt no property, there is nothing extraordinary in his not going to the Bank concerning it, or in paying little attention to the deſcription of it in the

 advertiſement,

for my part, they ſet that down for the printer to print it; we did not give the full deſcription of it.

How long have you lived with Mr. Davis?——Not long, not above half a year I believe.

What was you before? *(q)*——A grocer, I was ſervant to Samuel Lloyd.

Was

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advertiſement, ſince advertiſing, though in ſo imperfect a manner, fully anſwered his purpoſe; as the defendant was in cuſtody on the charge of a robbery, it therefore ſerved to give ſome *colour* to the charge; and as before the trial it was but natural he ſhould have reflected on the importance of being able to give a full and explicit account of the note in court, it cannot therefore be ſuppoſed that he would be *wanting*, at this *period*, in that reſpect.

(q) Mr. Lloyd did not ſeem pleaſed with this queſtion. He ſays he *had been* a grocer, but *inſtantly adds*, by way of diverting any further enquiry, that he had been *ſervant* to Mr. Samuel Lloyd, from whom, he afterwards declared, Mr. Davis took the ſhop. Now it may be neceſſary to obſerve that this Mr. *Samuel Lloyd*, was his *uncle*; and proper alſo to remark, that it was from Mr. *Samuel Lloyd*, his *brother*, of Holborn, that Mr. *Edward* Lloyd had the tea, and the Permit * that was examined by the defendant; which Permit bears date at twelve o'clock on that very day; ſo that, if what Mr. Edward Lloyd ſwears *can* be true, he was engaged all that day, from twelve o'clock at noon, till between ſeven and eight o'clock at night, in bringing this *one* bag of tea, from his brother's houſe in Holborn, to Fenchurch-Street, and was then *ſo much* fatigued with the carriage, that he was not able to put it out of the way, but let it ſtand, in ſuch a manner, as to be *particularly noticed by the defendant, from all other teas in the ſhop*, when he unluckily came to examine it.

It may here, with ſome degree of propriety, be aſked whether Mr. *Edward Lloyd* had not ample time, *after* twelve o'clock, to go home and ſecure the bag he had received, with the permit, from his brother,

* Permit Robert Davis, of Fenchurch-Street, to receive Twenty-ſix Pounds of Green Tea, part of the ſtock of Samuel Lloyd, of Holborn. Witneſs my hand this Twentieth day of November, 1779. This Permit to be in force this day, and no more. Noon, twelve o'clock.

26lb. G. Tea. P. GALLIARD.

Was Mr. Davis a grocer before you came to him?——*No, he took the ſhop of Samuel Lloyd.*

I underſtand you was a grocer yourſelf, and was a bankrupt?——Yes, ſome time ago.

And uncertificated?——*Yes.*

Have you any partnerſhip with Davis?——No.

Court. When you went in purſuit of this man did you leave the ſtrange man in the ſhop?——*No, he went out as I went out; my wife was come in then, ſhe came in as he was running away, and laid hold of his coat.*

MARY LLOYD *ſworn.*

I am the wife of the laſt witneſs.

You was at Mr. Davis's ſhop with your huſband, on Saturday the 20th of November? (r)——Yes, the priſoner came into the ſhop.

Who

brother, and afterwards get over to the King's-Bench, or the Borough, and there procure *another* bag, correſponding with the ſame Permit, before nine o'clock that night.—All dealers in tea, and officers of Exciſe, can readily anſwer this queſtion, though Mr. Lloyd may decline it. But by way of farther elucidation, it may be neceſſary to inform the reader, that, *previous* to this proſecution, there were *ſeveral actions* commenced, which very lately have been determined before the commiſſioners of the Exciſe, againſt this Mr. *Samuel* Lloyd, his brother, for ſeveral quantities of ſmuggled or unpermitted teas, and on the fulleſt evidence, he, at this moment (16th of April, 1780) ſtands convicted to a very conſiderable amount; and Mr. Davis himſelf, is, at this time, likewiſe under a proſecution of the like nature, for a ſeizure of unpermitted teas, recently (21ſt of March laſt) found in the cuſtody of Mr. Edward Lloyd, his *ſervant*, as already mentioned. Thus the nature of the *connection* between Mr. *Davis*, and the *Meſſ. Lloyds*, is evident to the moſt ſhallow capacity.

(r) With the utmoſt reſpect to the memory of the learned Judge who tried the defendant, it is truly amazing how he *miſ-conceived* the whole of this buſineſs; and it is clear that by ſuch miſ-conception the Jury were led away from the diſcovery of the real tranſaction, to the fatal prejudice of the priſoner. The manner of *putting* this queſtion (if ſuch it can be called) manifeſtly ſhews, that the learned Judge himſelf *miſtook* the whole caſe, to which the evaſive anſwers of Lloyd

 greatly

Who was in the ſhop when he came in?——My huſband and myſelf.

No body elſe?——*No body elſe but a man that came with the officer.*

The priſoner is the officer?——Yes.

The priſoner and the other man came both in together?——*Yes.* (ſ)

What buſineſs did they pretend to have there?——The priſoner ſaid he was an officer, and he demanded to take ſtock, the other man came with a pretence of wanting ſome tea, which I ſerved him. One ſpoke to my huſband, the other ſpoke to me. I was behind the counter.

Who ſpoke to your huſband?——The priſoner.

You

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greatly contributed. For by this queſtion, it is clear, the Judge conſidered Lloyd merely as the ſervant of *Davis*, living in Davis's houſe, and that Mrs. *Lloyd* had *another* place of reſidence, but, by *accident*, happened to be there on this Saturday night.—Whereas the fact is, that Lloyd and his wife then lived, and *now live* in this houſe: That Davis *never* lived in it, nor knows, or ever did know, any more of the buſineſs carried on in it, than the Great Mogul, only that his name is made uſe of, for the obvious reaſons already mentioned. *But perhaps the late ſeizure will either diſſolve the union, or loſſe Mr. Lloyd his valuable ſervitude under Mr. Davis.*

(ſ) Here Mrs. Lloyd ſwears that the ſuppoſed accomplice and the defendant came into the ſhop *together*. And yet Mr. Lloyd ſwears (ſee page ??) that the ſuppoſed accomplice came into the ſhop *before* the defendant. Here Mrs. Lloyd ſeems to improve upon her huſband's evidence, and the *diſtinction* is exceedingly material; for if the defendant came into the ſhop with an *intention* to commit the robbery, and the *ſtrange* man went in with him, *i. e.* in his company, it muſt be granted that he was, to every intent and purpoſe, an accomplice. But if he went into the ſhop either *before*, or *after* the defendant, it is ſubmitted to the candour of the reader, whether there is any thing given in evidence by either Lloyd or his wife, that can tend to prove this ſtranger an accomplice; and it is alſo ſubmitted whether this very plain *contradiction*, on ſo very material a point, as well as the inconſiſtency of the whole ſtory, does not invalidate and diſcredit every ſyllable they have both ſworn.

You had no other cuſtomers in the ſhop before?——Before we had, but not at that time.

Did you ſerve him with the ounce of tea?——Yes.

What did the officer ſay to your huſband?——He demanded the weight of the bag of tea which ſtood in the ſhop; he had the tea weighed, and it was weight. Then he demanded the permit, and took out *a handful of tea, to prevent its being weight; upon that he ſaid the tea was ſeizeable*, and ordered the man that was in the ſhop to aid and aſſiſt him.

Did he ſay he would ſeize it, or only that it was ſeizeable?——He ſaid he would ſeize it.

The man he ordered to aſſiſt him was the man that came in with him.——Yes.

Did they ſeem to be acquainted as they came in?——I cannot recollect that. *(t)* Did

(t) Here is another of the moſt extraordinary contradictions that ever eſcaped the attention of a Court of Juſtice. Mrs. Lloyd is aſked, with great propriety, "whether the defendant and the ſuppoſed accomplice *ſeemed to be acquainted when they came in?*" and ſhe declares, that ſhe could not recollect that." But the next moment, recollecting herſelf, and feeling the tendency of the queſtion, ſhe ſwears "that ſhe perceived rather *an intimacy between them.*" The *reaſon* ſhe gives for this *intimacy* is equally curious with the reſt of the ſtory; ſhe ſays "this ſtrange accomplice ſtood at the defendant's ſide, to ſee him weigh the tea; and although *he* ſaw that he had a handful of tea, *which made it not weight, he never ſpoke of it till ſhe told her huſband.*" Here then is the *ſole* ground for proving this man an *accomplice*, and that he was *intimately* acquainted with the defendant; and yet, if this very evidence tends to prove any thing material and deciſive in the matter, it is the ſtrongeſt proof the nature of the caſe will admit, that they were utterly unacquainted; and that the ſtranger hearing the defendant give his name, produce his commiſſion, and declare his buſineſs was to weigh and examine that bag of tea, thought it would be both unſafe and improper for him to interfere, although he did ſee the defendant take out a handful of tea, to examine it, as is uſual in all ſuch caſes; and the very inſinuation that is added, that ſuch *handful* was taken out by the defendant *to make the bag not weight*, renders the whole ſo completely abſurd, impoſſible, and incredible, as perfectly deſtroys every other charge which accompanies it.

Did they ſeem to know one another?——I cannot ſa
that they did; I perceived rather an intimacy betwee
them; he ſtood beſide the other to ſee him weigh t
tea; and though he ſaw he had *a handful of tea, th*
made it not weight, he never ſpoke of it till I did to m
huſband, who was on the other ſide of the ſcales.

Did the other man pay for the ounce of tea which h
had?——Yes, and I gave him change to take for it.

When he had paid for the tea and received his change
he did not go out of the ſhop?——No, he ſtood ſtill i
the ſhop.

When you ſaw the tea in the priſoner's hand you too
notice of it?——Yes, and then he threw down the te
on the ground, and pulled his knife out of his pocket
and opened it, and kept it open in his hand.

Was it a knife that was fixed in the haft, or a claſ
knife?——I cannot recollect that, I ſaw the knife ope
in his hand.

What ſort of a haft had it?——The haft he held in hi
hand, I did not ſee the haft.

But it was a penknife, you are ſure?——I think it wa
a pen-knife.

What did he ſay?——*He ſaid nothing, only uſed ſom*
ill language to my huſband; he called him names, an
ſaid he was a *Flat*; *(u) I did not ſee him make any uſe o*
th

(u) If the leaſt reliance *can* be had on any part of this evidence
the reader is here led to believe that ſome bad language paſt betwee
Mr. Lloyd and the defendant; and yet Mrs. Lloyd ſtood by, all th
time, *ſeeing the defendant with a knife drawn, and naked in his hand*
and neither herſelf nor huſband called the watch, or any other aſſiſt-
ance, until the defendant called her huſband a *Flat*, which ſeems t
have alarmed or irritated Mrs. Lloyd more than the drawing of th
knife; for ſhe *then*, and not till then, "*went over the way to call a*
"*neighbour*" The defendant here begs leave to appeal to the commo
feelings of all mankind, whether Mrs. Lloyd would not have inſtantl
called the watch, cried out murder, and ſolicited inſtant help, if ſh
had *really* ſeen him with a naked knife, quarrelling with her huſband,
and *not quietly croſs the ſtreet to call a neighbour*.

knife; it frightened me, I ran over the way to call a neighbour; when I came back the priſoner was coming out at the door.

Did that neighbour come over?——Yes, he followed directly; his name is Matthew Gibbs.

What became of the other man?——*He pretended to go in purſuit with the reſt. (v)*

When you came into the ſhop, in what ſituation did you find the ſhop?——I was in a very great fright, I cannot recollect now.

Did you take any notice of the till?——*No, neither before nor after, till my huſband came back.*

You was at home all the afternoon?——*Yes, my huſband came home about duſk, I believe it was between four and five o'clock (w)*; he ſtaid at home from that time all the evening.

How did you employ yourſelves during that time?——We ſerved the cuſtomers between whiles.

Did you do any thing elſe?——I cannot recollect.

Who

(v) Here Mrs. Lloyd, on being aſked what became of the other man, ſwears "that he ran after the defendant, and *pretended* to be in purſuit with the reſt."—Now if this is true, it would be fortunate for Mr. or Mrs. Lloyd if they can inform the public, when and where, this accomplice made the *promiſe* that he would appear againſt the defendant, as before ſtated.

(w) Mrs. Lloyd here poſitively ſwears that her huſband came home the day of this *horrid* robbery at *duſk*, and, as ſhe believes, between four and five o'clock, "*and that he ſtaid at home from that time all the evening*;" yet Mr. Lloyd himſelf ſwears that he *did not* return home till between ſeven and eight o'clock that evening, and that *he received* the bank note from Mrs. Lawrence that day.—But Mrs. Lloyd afterwards ſwears that *ſhe* received the bank note that evening, about *five* o'clock, from Mrs. Lawrence, and gave it to her huſband. It really is impoſſible to conceive how ſo many, ſuch palpable contradictions and abſurdities, could paſs unnoticed by the Court or Jury; and ſtill more wonderful that they obtained the leaſt degree of credit with them.

Who kept the key of the till?——It was not locked.

You take the money out every night, I ſuppoſe?——Yes.

Then the money in the till is the ſum taken that day always?——Yes.

Do you recollect what had been taken that day?——I believe near eight pounds, beſides a note that was taken of a young lady that was going to the play that night; *I took it of her and gave it to my huſband, and he put it into the till.*

What is the lady's name?——Lawrence.

You do not recollect the deſcription of the note?——I cannot recollect any thing of that.

You now and then receive bank notes in the courſe of your buſineſs?——Sometimes, and my huſband takes care of them,

Does your huſband keep a bill book?——I believe he does.

What time was this note received?——*At about five o'clock I received it, and gave it to him.*

Did he enter it in a bill book?——In a ſort of memorandum book.

You put down every thing in ſome book I ſuppoſe?——Yes.

Was it put down in that book?——Yes, I believe it was.

Croſs Examination.

Mrs. Lawrence is an acquaintance of yours?——Yes.

Where does ſhe live?——At Burford, in Oxfordſhire.

(x) *She only left the note with you to take care of it till ſhe came back from the play?——Yes.*

Court

(x) Here it is admitted that the bank note, if even ſuch a note was in their poſſeſſion at the time, was not the property of either Mr. *Davis* or Mr. *Lloyd*, but was left, for ſafe cuſtody, by Mrs. or Miſs Lawrence, till ſhe returned from the play; and yet the indictment is laid for ſtealing ten pounds, the PROPERTY of Mr. Davis.

Court. How long had you had this tea which was in e bag?——It came in the evening about duſk; my huſ-nd brought it.

Counſel for the priſoner. This tea your huſband brought me about duſk?——Yes.

Did he tell you where he brought it from?——From olborn.

Not from the Borough?——No.

He pitched upon this bag as the firſt thing he wanted to eigh?——Yes.

Miſs Lawrence ſtaid in town ſome time after this?——Yes.

She was at your houſe that evening?——Yes.

She kept an account of the bill perhaps?——I do not now.

Did not you aſk her?——No, my huſband might.

As the note was only left to be taken care of, and to returned to the lady when ſhe came back, how came to be entered in the book?——I do not know.

I underſtand that book is the ſhop book, whoſe book is at?——Mr. Davis's.

How came it to be entered in Mr. Davis's book?——y huſband was left in truſt, and therefore he would ke care of one thing as well as another.

Don't you recollect how long your huſband had been home when this man came in?——He came in at uſk, and was in all the time.

Court. Had you counted the money?——My huſband unted it.

Court to Edward Lloyd. Have you that book here?——No, my Lord, I have not, I ſhould have brought it I had thought it neceſſary.

MATTHEW GIBBS *ſworn.*

I am a hatter and hoſier in Fenchurch-Street.

Do you remember Mrs. Lloyd's coming over to you?

 ——Perfectly

——Perfectly well; Mrs. Lloyd came to me ſeemingly in a great fright, and begged me to come over.

Did ſhe tell you the reaſon?——No; I had a gentleman in the ſhop, I begged his patience a moment to go and ſee what was the reaſon; as I was croſſing the way I ſaw the priſoner coming out of the ſhop; I purſued him, and in about twenty yards the priſoner was ſtopped there was a watch houſe pretty near, and he was given in charge of the conſtable, and was taken to the watch houſe.

PRISONER's DEFENCE.

My LORDS, and Gentlemen of the JURY:

Although I ſtand before you in the odious light of a criminal, I thank God I can look around me, and not behold one, even the moſt innocent ~~man~~, more ſo than I am of the charge exhibited againſt me: And here I would beg leave to crave your indulgence, if it would not be deemed troubleſome, while I relate to your Lordſhips and you Gentlemen of the Jury, the whole tranſaction circumſtantially as it happened, on which this proſecution has been founded and carried on; and, though labouring under the diſadvantages of coming from the mouth of a priſoner, and precluded from the ſanction of an oath, will not be deemed, I truſt, leſs truth, ſince we find, and by ſad experience on my part, that even that ſolemnity is not always ſecurity for it.

As I was going up Borough High-Street to my lodging, near London-Bridge, between nine and ten o'clock in the evening, on the 20th of November laſt, I overtook my accuſer, Mr. Lloyd, who I obſerved to have a parcel with him; which, from his well known character in that way, and the covering over it, I entertained an unfavourable opinion of, (that is thinking it to be to conveying without permit) and accordingly looked at it attentively

entively at the ſaid parcel, and the better to prevent his eeing me taking any notice of it, I croſſed the way; ut had no ſooner done ſo, than he immediately followed ne, and upon overtaking me, which he ſoon did, gave me a puſh, as though evidently meant to inſult me, (he eing to appearance in liquor) and accoſted me with heſe words: *He ſuppoſed I had a ſuſpicion of his having omething he ſhould not have, and if I had there was then n opportunity for doing my duty.* Upon which I aſked im what reaſon he had for thinking that, unleſs it was ſo, and told him ſince he had thus accoſted me, and as I new very well where he lived, I would go home with im, and ſee what it was he had got; which after hav-ng done by examining the ſaid parcel, and confirming my ſuſpicion of its being tea, I accordingly required to ee the permit for the ſame; and upon being ſhewn it, n order to ſatisfy myſelf that it was a legal one, that is orreſponding in weight, quality, &c. with the tea he hus had, (it ſpecifying twenty-ſix pounds of green) I ook a little in my hand to the candle ſtanding on the counter, to ſee the quality, which being ſatisfied in, I hen (firſt taking off the looſe bag he had over it) put it nto a large pair of ſcales, hanging in the middle of the hop, on the outſide of the counter, when it proved de-icient with package included (which is uſually eſtimated t a quarter of a pound) three or four ounces; but which ifference with the permit, not deeming a ſufficient round for ſeizure, I was, after having done all this, nd during which time I was abuſed by him, his wife, and another man ſtanding on the outſide of the counter, coming out of the ſhop; when recollecting that his wife (who was in the ſhop when Lloyd and I went into it) while I had been thus engaged had ſlipt out of it, and judging from their former character and diſpo-ſition, it was with a deſign to collect a mob to uſe me ill, I was preſently confirmed in my ſuſpicion by ſeeing, ere I

had got above ſix or ſeven doors from the ſhop, this Mr. Lloyd, with ſeveral people, coming after me, and (from being ſenſible of the inveteracy of the populace againſt officers of the Revenue) conceiving it could be with no other deſign than to uſe me ill, I endeavoured, as ſpeedily as poſſible, to prevent it; but had not got farther than to White-Hart-Court, Gracechurch-Street, before they, to whom were added many more, beſet me, and began, by ſtriking, and other means, to uſe me ill, until a peace officer came up; when immediately putting myſelf under his protection, I was given in charge to him by Lloyd, for having, as he ſaid, robbed his till of a handful of gold, ſilver, and halfpence, (but no mention then of a bank note) by putting in my hand, and taking it all out together, upon which I was, without being ſearched, taken to the watch houſe, and from thence to the Poultry Compter.

To Lloyd. Did you know this man before?——No, I did not know him. (y)

Did you know him to be an Exciſe officer?——No.

Did you meet him in the Borough?——No.

Or was you overtaken by him?——No.

Was you in the Borough that evening?——I was not.

You ſay you was not at home till ſix or ſeven o'clock; (z) *your wife ſays you was at home at duſk?——I do not know particularly*

(y) On this poſitive denial that Lloyd did not know the defendant, or that he was an Exciſe officer, no comment is neceſſary, but to refer the reader to one of the annexed certificates.

(z) In this inſtance Mr. Lloyd gives another proof of his ſuperior talent for evaſion, which renders him *immortal*. The court here, for the *firſt time*, notices the *contradictions* between his own and his wife's evidence, about the time of his coming home that evening; and although they indulge him with a whole hour, it was here obſerved that he was not at home till *ſix* or *ſeven* o'clock, whereas Lloyd himſelf ſwore,

particularly know as to the hour, it was about duſk. I will explain the matter of the bank note to your lordſhip more particularly, if your lordſhip pleaſes. Miſs Lawrence had bought an urn of Mr. Goſling, in Fenchurch-Street, and ſome things in Moorfields; this note was to pay for theſe things when they came in. I put it in the till for the purpoſe of paying for them; ſhe was to have ſome things from our ſhop. I entered the bill in the book. I was to give change for it.

For the Priſoner.

PHINEAS BOND, Eſq. *ſworn.*

How long have you known Hudſon?——I think my firſt knowledge of him was in the latter end of 1773, or the beginning of 1774; about that time the adminiſtration of an eſtate of conſiderable conſequence fell into my hands. I ſought about for a proper perſon to manage

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wore, before, that he did not return home till between ſeven and eight.—But on being told that his wife had ſaid it was *about duſk*, he was very unwilling to give her the *lie direct*, in ſo *public a place* as the Old Bailey, and very *politely* ſays *it was about duſk*. So that, by Mr. and Mrs. Lloyd's deſcription of the ſeaſon, on the 20th of November it *continued to be duſk* from between *four* and *five*, till between *ſeven and eight o'clock* at night.

It is really to be doubted whether there is one evidence, the moſt skilful that ever appeared in the annals of proſecution, that could reconcile this moſt extraordinary Phænomenon to any Court of Juſtice, except Mr. Lloyd; and his preſence of mind and ingenuity are equally conſpicuous: For ſeeing that he was likely to be *preſſed* to a farther explanation, he inſtantly ſhifts the point, and tells the Court he will entertain them with a ſtory of a bank note, of an urn, a Mr. Goſling of Fenchurch-Street, and of things bought in Moorfields, which had no more relation to the trial than the hiſtory of *Valentine and Orſon*; but as fully anſwered Mr. Lloyd's purpoſe, it amuſed the Court, and he was aſked no more queſtions *concerning the time of his returning home.*

nage that eſtate, and to collect a conſiderable quantity of out-ſtanding money due to that eſtate. *This man was recommended to me in as warm language as ever man was recommended. I employed him a conſiderable time; and during the time he ſerved me, I remarked him for his honeſty, attention, and induſtry, and I thought he merited the character I had of him.*

What are you?——I am a barriſter of the Middle Temple; the troubles of America brought me to this country, and I believe brought Hudſon. I gave him letters to ſome of my beſt friends here to employ him when he came over.

ANDREW ALLEN, Eſq. *ſworn.*

I am an American, of Pennſylvania, belonging to the Attorney-General. I have known Mr. Hudſon ſince the year 1761, I was returning from the Temple to Pennſylvania. My father wanted a number of perſons to act as clerks. *Mr. Hudſon went over in the ſhip with me, and lived with my father all the time of his apprenticeſhip; he had a deal of money paſs through his hands; he behaved with the greateſt honeſty and induſtry; he has always born the moſt unexceptionable character. I never heard any thing againſt him.*

Mr. EDWIN SAND *ſworn.*

How long have you known the priſoner Hudſon?——About a year, I believe. I never ſaw any thing wrong of him; he was always a civil man; he uſed to ſurvey me. I am in the wine trade; he frequents my kitchen; *there is often a great deal of plate lies about; I never heard any accuſation of him; he always appeared an exceeding civil, honeſt man.*

Mr. THOMAS LAMB *ſworn.*

You are, I believe, a dealer in brandy?——I am.

It was the buſineſs of Hudſon to ſurvey you?——It was.

How

How long have you known him?——Three years.

How was his behaviour and conduct?——Always very well from what I ſaw. *I left things of value in my cellar, and have been for ſeveral months in the country. I never miſſed any thing; if he was capable of any mean thing, he had opportunities to do it in my cellar. I think from my heart he is not guilty of the charge.*

Mr. ELIAS HIBBS *ſworn.*

I am a brandy dealer. I have known the priſoner three years, during which time he has always acted becoming his ſtation, with ſobriety and induſtry; he has ſurveyed me three years; *I believe him to be a very honeſt man; I have no reaſon to diſbelieve it.*

Mr. GEORGE BECK *ſworn.*

He has lodged at my houſe fourteen weeks, and down to the time he was taken up. He came as a ſtranger to me. *I have truſted him every day of my life with* 4, 5, *or* 6000*l. worth of goods in my cuſtody; his character has been very honeſt, as far as ever I could hear of him.*

He has an undeniable character?——Yes, he has.

Mr. ROBERT MOORE *ſworn.*

I have known the priſoner two years, or ſomething thereabouts. I am in the brandy and rum trade; he ſurveyed me regularly. *I always looked upon him as a very honeſt man.*

Mr. WILLIAM HAYWARD *ſworn.*

I am a dealer in rum and brandy. Hudſon has frequently ſtocked me in the courſe of two or three years; my clerk, who has attended him, and I have found him

a very

a very troubleſome man, (a) and I have never wronged the Revenue. One day in particular, when I was going out to dine with Mr. Dunnage, he came and ſaid there was an

(a) This part of the trial furniſhes an inſtance which if not *wholly without precedent* in the annals of proſecution, is, the defendant with the greateſt deference humbly apprehends, ſo very uncommon, as to merit the readers particular attention.

The laws have wiſely preſcribed that no perſons but the proſecutors, or thoſe connected in *ſome reſpect* with the charge for which he is on his trial, ſhall be witneſs againſt a priſoner; nor that after the evidence on the part of the proſecution is gone through, and he has entered on his defence, no new evidence ſhall be brought againſt him, even on the ſubject matter of the proſecution, much leſs on any other.

The reaſon for this laſt rule is obvious. It is but juſt that the accuſed ſhould have the whole evidence againſt him, that he may know all he hath to anſwer; but if this rule is ever broken through by inadvertence or ſiniſter deſign, the ſame juſtice demands that the accuſed ſhould be permitted to reply to this ſurreptitious kind of evidence.

Thus guarded as the law is, if ever any perſon ſhould be unjuſtly or informally convicted, the fault is not in the law itſelf, but in thoſe witneſſes, the inattention of the priſoner's counſel, or the inadvertency of the court, which ſhould be ever awake againſt aught that is manifeſtly unjuſt, or apparently informal; and unhappily for the defendant, every rule of evidence was broken through on his trial, from one or more of the above cauſes.

It is true that the deciſion of a Court of juſtice ſhould be beheld with reverence, and treated with reſpect; but ſuerly no one will ſay, when on this trial, not only manifeſt contradictions and inconſiſtencies eſcaped unnoticed, but alſo the moſt glaring breaches in the known and eſtabliſhed rules of evidence were ſuffered to be made, it is no irreverence, no want of reſpect, to ſay there was an inattention or inadvertency *ſomewhere*.

On the firm baſis of the abovementioned principles, after he had began his defence, no other evidence could legally or formally be adduced againſt him. Yet ſtrange as it may appear, the preceding part of the trial not only ſhews that the evidence for the proſecution was afterwards examined, but here likewiſe, leſt that ſhould fail, (and the defendant apprehends ſufficient has appeared to ſhew there were not wanting motives, in thoſe who gave it, to prevent their being defective in that reſpect) a perſon appears and is permitted to give evidence,

not

increaſe in my ſtock, and he ſhould ſeize. I ſaid to my clerk I know nothing of it; whatever he had a mind to take away, I bid my clerk charge him 14s. for the rum,

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t only *againſt* him, but upon what was *totally foreign* to the matter en before the Court; and from the ſudden and unexpected manner which it was introduced, rendered it utterly impoſſible for the defendant to contradict. And yet to add to the wonder, and to the peculiar hardſhip of the defendant, when he had luckily (as he thought) officer of Exciſe in Court, who could have elucidated, if not contradicted, the evidence of this witneſs, he was told by the Court, *they could not go into that.*"

Having made theſe remarks on the impropriety of Mr. Hayward's being permitted to give evidence againſt him, the defendant will now examine the evidence itſelf, which though foreign to the matter iſſue before the Court, was of little moment to Mr Hayward; *her conſiderations* actuated him, and emulating the conduct of e *worthy* perſon who had preceded him in evidence, as well for hat the defendant *had done*, as with a view to prevent any thing of e kind *in future*; and apprehending, from the teſtimony that was ving in his favour, there was ſome probability of it, he is determined to prevent it, by removing the favourable impreſſion ſuch teſtiony might make on the minds of the Jury.

To that purpoſe, he ſwore that he was a dealer in rum and brandy; that the defendant had frequently taken his ſtock in the courſe of wo or three years;—that he and his clerk had found him to be a very *troubleſome* man;—that he had never *wronged the Revenue*;—that one ay the defendant had ſaid there was an increaſe in his ſtock, and he ould ſeize;—that thereupon he ordered his clerk to charge *fourteen* illings a gallon for the rum, and *eighteen* ſhillings a gallon for the randy the defendant ſhould ſeize;—nd that he would arreſt him for e amount, for he had *nothing to do with the Commiſſioners.*

This being the nature of his evidence, and although it ſo materially njured the defendant on the trial as it did, yet as the whole of it, otwithſtanding the virulence with which it was delivered, does not mount to any criminality in the defendant, nor is any proof of the harge *then* againſt him, but goes only to accuſe him with being *roubleſome* in his Buſineſs as an officer of Exciſe, he is not anxious o endeavour to exculpate himſelf from it *here*, as he truſts he can afely appeal to all thoſe officers of that branch of the Revenue, upon

rum, and 18s. for the brandy. I ſaid if he took it awa
I ſhould arreſt him for it. I had nothing to do with th
commiſſioners.

Mr

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whom, when a trader's ſtock is increaſed by means not warranted b
law, attempts of BRIBERY failing to prevail on them to overlo
the fact and violate their oath, THREATS OF ACTIONS have not d
terred from doing their duty; for the appellation Mr. Haywar
has beſtowed on him, being no other than a *common* one, *indiſcrim*
nately beſtowed on them by traders. It is true, *fraudulent* trade
are here only meant, and conſequently ſince he has ſworn that he *neve*
wronged the Revenue, Mr. Hayward cannot be included; for ſure
no one can doubt the veracity *(particularly* when ſanctified by a
oath) of the ſon in-law of a common-council-man. Nay, the defen
ant can, in a great meaſure, bear teſtimony to the truth of what M
Hayward has ſworn, inaſmuch as *wrongs prevented* cannot be ſaid
be wrongs; but the truth of the aſſertion, in its *utmoſt extent*, he wou
rather leave to Mr. Hayward's *own conſcience*, ſince certain it i
the ſame has happened to Mr. Hayward, that unleſs had happene
to thoſe who are called fraudulent, they would have been free fro
the appellation, viz. *the being detected*. For unfortunately for h
oath, he has put it in the power of the defendant, to be able *par*
cularly to point out the the *nineteenth of June*, and *ſeventh of Ju*
1778, as days on which he ſeized *ſeveral* parcels of foreign ſpiri
found in the poſſeſſion of Nathaniel and William Hayward, (w
were then in partnerſhip) more than they could *legally* account fo
and for which he was charged neither *fourteen* nor *eighteen* ſhilling
a gallon, nor yet arreſted for taking them away; but, on the contra
the ſeizure was *tacitly* acquieſced in.

The aſſertion, therefore, of Mr. Hayward with regard to his havi
never wronged the Revenue, appearing in this light, which the defe
ant apprehends will be thought little leſs than tantamount to his ha
ing delivered a *falſe* teſtimony on oath; and the evidence of Mr. Fin
proving that many officers had been turned out of the diviſion for bei
too civil, and that the defendant was of that troubleſome tribe, wh
perſons of a *particular* deſcription, like ——— and ———, wiſh
to have likewiſe turned out, to make room for ſome of a more *pliab*
nature, and who, like the papal power, would permit indulgence
handſomely paid for them; the impartial and unprejudiced muſt f
at the firſt bluſh too ſtriking a ſimilarity between Mr. Hayward's id
of a troubleſome man, and the one juſt mentioned, to doubt a mom

Mr. THOMAS DUNNAGE.

I have been called upon by the priſoner; if I am alled upon now, I muſt give him *a moſt infamous cha-acter. (b)* *(He is ſworn.)*

Priſoner.

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f its having been *ſomething more* than a deſire to do juſtice, that made m come forward to aid the conviction of the defendant, by evidence t only foreign to the queſtion, but which, had it been fully inveſti-ted, (as it ſhould have been) inſtead of operating to his prejudice the manner it did, would have had a contrary effect, inaſmuch as it ould have ſhewn he acted with fidelity in his ſtation as officer of xciſe; and the defendant apprehends they can ſcarce conceive a greater ſtance of villainy, than Mr. Hayward's conduct therein exhibits, in luntarily (for if he was called upon by the proſecutors to give it, it idently demonſtrates a *conſciouſneſs* of the badneſs of their cauſe, as muſt have been with a view to corroborate their own teſtimony by validating that which might be given in the defendant's favour) com-g into a Court of Juſtice with ſuch evidence to aſſiſt in eſtabliſhing a arge of the nature of that, for which the defendant was on his trial; d in doing his *utmoſt* to convict a man of a charge of which he could ve *no knowledge* of his guilt, and of the circumſtance of which he new no more, except by hear-ſay, than any of the ſpectators preſent, hat had appeared in evidence before the Court, and who (for the truth which the defendant appeals to all thoſe of his readers who were reſent) reprobated his conduct for ſo doing, by a *general hiſs*.

(b) Here, the defendant humbly apprehends, is an impropriety ill greater than the former; for not only the ſame reaſons which ſo rongly forbad the admiſſion of Mr. Hayward's evidence, operate gainſt permitting that of his *father in law*, Mr. Dunnage; but after aving been heard to make the declaration, *previous to his being ſworn*, e ſhould not nave been permitted to be ſworn, the ground * on hich he was to give his evidence being removed. But however,

ſworn

* *It appearing from the evidence of Mr. Dunnage, that he was alled upon by the defendant to give it, he thinks it neceſſary to inform is readers how that matter ſtands.*

A day or two before his trial, he delivered to a friend of his ten let-rs, of equal tenor, to deliver to a like number of perſons, whoſe ſtock, as Excise officer, he had ſurveyed, requeſting their attendance thereon, in his behalf, with regard to character; which letters being delivered with-

out

Priſoner. I beg to mention to your lordſhip, Mr. Dunnage is a partner with the gentleman who has ſpoken ſo diſreſpectfully of me.

Court

ſworn he was, and he declared—firſt, that he was *not* partner with Mr. Hayward;—ſecondly, that he was a *brandy merchant*;—thirdly, that the defendant was the moſt *troubleſome* officer who had ever ſurveyed him for forty years;—fourthly, that that was the defendant's *general* character;—fifthly, that the defendant is frequently making increaſes in *our* ſtock, and *taking them away* without his (Dunnage's) knowledge of the motive;—and laſtly, that he (the defendant) had done many unjuſt things of that kind. Now let us examine thoſe ſix points, and ſee how far either of them is conformable to truth, or altogether go to eſtabliſh the opprobrious epithet with which they were prefaced.

The *firſt* point ſworn by Mr. Dunnage, is, that he was *not* a partner with Mr. Hayward, and the *ſecond* that he was a *brandy merchant*. The day on which this was ſworn was the 9th of December, 1779. Now it appears by the Exciſe office books, that Mr. *Thomas Dunnage* had withdrawn his name therefrom on the 18th of March, 1779, and that the

out ſuperſcription, (he having left it to his friend to direct them to whom he thought proper) and ſeeing Mr. Dunnage in Court, and ſitting among ſome of them who had given evidence in his favour, he conceived him to be one of thoſe to whom his friend had directed one of the ſaid letters, and that he had attended on his behalf. Upon what grounds he founded that opinion, and how far Mr. Dunnage had reaſon to act contrary to his expectation, and in the manner he did, he ſhall leave to his readers to determine.

In the firſt place then, he truſts, it will be thought his calling on him evidently ſhews that he was conſcious *within himſelf he knew no ill of him; but when (as his evidence clearly ſhews he founds the opprobrious epithet beſtowed upon him thereupon) he aſſures his readers, and deſies Mr. Dunnage himſelf (and ſurely if he here aſſerts a falſhood, the contrary if it exiſts, will appear by the books of the Exciſe office) to produce a ſingle inſtance of his having ever made a ſeizure from him. Thus circumſtanced with regard to Mr. Dunnage himſelf, there are few of his readers the defendant truſts, will think he had any reaſon to apprehend what had happened between Mr. Hayward and him, (mentioned in the note on his evidence) it being long before the family connection took place, could have ſuggeſted to him the idea that that had made him his enemy.*

Court to Mr. Dunnage. *Are you partner with Mr. Hayward?*——*No.*

What is your buſineſs?——*A brandy merchant in one branch,* and many other branches of buſineſs.

Do

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e names of his ſon John Dunnage, and his ſon in law William ayward, were entered in its ſtead. Therefore as the law enacts that very perſon dealing in ſpiritous liquors, muſt enter his name in the xciſe office books, on pain of a penalty of 50l. it is evident if Mr. unnage *was a brandy merchant* on the 9th of December, 1779, he as ſubject to that penalty, for having followed that one, amongſt his any other branches of buſineſs, nearly nine months after his name as withdrawn from the Exciſe books; and he might, had not the me in which informations of that nature muſt be heard been elapſed, ve been convicted in the ſaid penalty, without any other evidence an the record of his own oath: And though it is inſufficient to dict upon for perjury, yet the defendant apprehends few of his read- s will think it falls much ſhort of it.

Mr. Dunnage alſo ſwore he was *not* partner with Mr. Hayward. Mr. Dunnage was not partner with any one (for if he was not rtner with Mr. Hayward, the defendant would really be obliged if r. Dunnage would inform him with whom he was) why did he ſay r ſtock? *Kings* and *Phyſicians* are known to uſe the plural inſtead the ſingular number. They, indeed, ſay *we* for *I*, *us* for *me*, and r for *my* and *mine*; but as this witneſs is neither *King* nor *Phyſician*, hen he ſays *our*, he muſt be underſtood to mean ſome one or more *ſides* himſelf. This mode of ſpeaking, if he had *no* partner, is ſurd; and if he *had*, the defendant apprehends the reader will con- ive his oath, upon this point, appears in no better light than the rmer; and whether partner or not, the defendant conceives what he eant upon the trial, to infer from Mr. Dunnage being partner with r. Hayward, is not leſſened by Mr. Hayward's being his ſon in law, ſtead of partner.

The next point, reſpecting the appellation *troubleſome*, hath been fficiently explained already in the note on Mr. Hayward's evidence. ut as it is there ſaid to be *fraudulent* traders only who apply it to officers, d as the defendant has juſt now ſaid that he never made any ſeizures om Mr. Dunnage, the explanation of it there conſequently cannot be pplicable here. But notwithſtanding the defendant did never make any izure from Mr. Dunnage, yet the books wherein his ſtock was kept

by

Do you know any thing of the character of this perſon?——My lord, and gentlemen of this court, it is an *extreme diſagreeable buſineſs for me to ſpeak in.* I have been *forty*

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by the defendant, and the *number* of petitions from Mr. Dunnage to the Commiſſioners of Exciſe, during the time the defendant ſurveyed it, on the ſubject thereof, *yet in being*, will ſhew, that if the charge of *fraudulent* is not to be brought againſt Mr. Dunnage, it is owing merely to *hair breadth* eſcapes, and ſuch as were ſufficient to make *his* idea of *troubleſome* correſpond with thoſe of *fraudulent traders.*

The fourth point is, that being *troubleſome* was the defendant's *general* character. Here, the defendant truſts, the *confidence* he had to ſend thoſe ten letters juſt mentioned, and the manner in which they were ſent, (as the manner in which they were delivered to his friend evidently ſhews he could not tell who would receive them) and the evidence of the perſons who attended in conſequence thereof, who were dealers in ſpiritous liquors, as well as Mr. Dunnage, *flatly* contradict this point, and plainly ſhew he was conſidered in that light by *particular* perſons only, unleſs the teſtimony of *four* perſons, of reſpectable character and unimpeached veracity, is to be outweighed by *one*, of whom it is no harm, from what appears by his evidence *only*, to ſay there is reaſon to form a different opinion.

The fifth aſſertion is, "he is frequently making increaſes in *our* "ſtock, and *taking them away*, without his (Dunnage's) knowledge "of the motive." The word *frequently* certainly implies a great number of times; yet Mr. Dunnage found it convenient to put up with theſe *frequent* ſeizures, without having ever before complained to the Commiſſioners in a formal manner, as he might; and from what may be judged of him here, the defendant apprehends the reader will not think it preſuming too far, to ſay he would have done had he *really* been aggrieved; or without adopting the idea of the former evidence Mr. Hayward, his *counſellor* and ſon in law, of charging him for what he might take away, and arreſting him, without any conſideration of the Commiſſioners.

But ſince it appears, upon oath, that the defendant did make theſe *frequent* ſeizures from Mr. Dunnage, it will, no doubt, be thought quite inſufficient to reſt a refutation of the charge upon thoſe reaſons alone, and being far from wiſhing to make ſo light of the oath of a perſon of ſo much *veracity*, as a common council man is generally thought to poſſeſs, (though how far it holds good in *all caſes* the reader is left to determine

forty years in trade, and of all the officers that have ſurveyed me, I never had ſuch a troubleſome one as this; it is his general character.

Court. It is his moral character that is in queſtion before the court, not any ſquabbles between him and others?——*He is frequently making increaſes in our ſtock, and taking them away; what is his motive I do not know.*

Does

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mine) the defendant *here calls upon Mr. Dunnage to mention a ſingle* inſtance of his having ever made a ſeizure from him, during the whole time he ſurveyed his ſtock.*

Nor is, the defendant apprehends, the opprobious epithet Mr. Dunnage thought fit to beſtow on him, ſubſtantiated by his laſt aſſertion, *"that he had many unjuſt things of that kind;"* for that they were done to him he has not proved, and if he meant (which his words clearly ſhew he did) that he had made unjuſt ſeizures from *other* traders, there he is not only defective in proof, but can be fully contradicted herein by the Exciſe office books, by ſhewing thoſe that have been already *legally* condemned; and with regard to thoſe that have not, by the circumſtances under which they were ſeized, and of which number happens to be thoſe two from his relations, *Meſſ. Hayward* already mentioned.

Having thus conſidered the ſeveral points of Mr. Dunnage's evidence, the defendant leaves the reader to judge how far the epithet *infamous* is thereby eſtabliſhed, and (admitting there had been no impropriety in permitting him to give his evidence) how far he was warranted in bringing *either* of thoſe charges againſt him ~~he that~~ did? And whether it does not evidently appear the ſame motives actuated him, that influenced the preceding witneſs; and from thoſe two perſons only out of near two hundred, whoſe ſtocks of liquors the defendant ſurveyed, and thoſe too ſo *cloſely connected* appearing in this manner (but on the other hand four appearing in his favour) and the evidence of Mr. Finley, whether thoſe motives do not clearly appear to have been a fixed determination in them, as far as they could, to convict him for having

that he

* *The books of the Exciſe office, in which all ſeizures are entered, do not furniſh a ſingle inſtance of the defendant having ever made a ſeizure from Mr. Dunnage.*

Does the profit of the ſurplus in the ſtock go into the pocket of the priſoner?——Part of it, *and he has done many unjuſt things of that kind.*

——— FINLEY *ſworn.*

Do you know how many officers have been turned out of your diſtrict for neglect of duty?——*Several*; I am general Surveyor. I have known Hudſon about three years; he has been an officer under my inſpection.

What has been his character ſince you have known him?——*He has been very anxious for the good of the Revenue, and to take care of the diviſion; thoſe that wiſh to carry on frauds, I believe, would wiſh him out of the diviſion.*

And many officers have been turned out of that diviſion for neglect?——*Yes.*

Counſel. They were turned out for being too civil.

Court. Had you ever any complaints againſt him for making increaſes in an improper manner?——*None but what he could make out to my ſatisfaction.*

When an officer detects an increaſe in the ſpiritous liquor branch, does the profit go the officer, or to the public, or part to one and part to the other?——Part goes to the officer, to be ſure, by law.

Priſoner.

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having (as he truſts it evidently appears, as well from what has been ſhewn as Mr. Finley's evidence) only done his duty as officer of Exciſe? And inaſmuch as the ground on which the former witness gave his evidence, does not appear here, and which it is evident was the ſame on which Mr. Dunnage founded his evidence, viz. making ſeizures from him, whether his conduct does not appear in a ſtill *blacker* light than the former witneſs, and *indelibly* affix on *himſelf*, the epithet he, ſo contrary to decency, candour, and juſtice, ſo freely beſtowed on the defendant. It was at leaſt conceived in an *equal* point of view by the ſpectators in Court, it having (for the truth of which the defendant likewiſe appeals to all thoſe of his readers who were preſent) been rebrobated in the ſame manner his was.

Priſoner. My Lord, I wiſh to call an officer of unoubted reputation, who has made ſeizures at theſe entlemen's houſes.

Court. We cannot go into that.

Priſoner. It would ſeem that I was a fool-hardy thief hat would act thus in the face of an avowed enemy; nd I flatter myſelf I had no need to commit this robbery. an it be conceived by any one, that knowing my ccuſer, knowing myſelf in an avowed enemy's houſe, here it was extremely neceſſary I ſhould be very circumſpect and careful what I did, that I ſhould be guilty f this charge.—I am ſorry I cannot call evidence to the adneſs of Mr. Lloyd's character.

GUILTY.

Tried by the London Jury, before Mr. Juſtice BLACKSTONE.

END of the TRIAL.

GENERAL OBSERVATIONS ON THE WHOLE TRIAL.

NO property having been found on the defendant nor any attempt made to that end, at a time when, if he had really been in poſſeſſion of any it *muſt* have been diſcovered; and the evidence on which he was convicted being only that of a *man* and his *wife* nay, the reader will obſerve, that, contrary to what the law has preſcribed, that "*no perſon ſhall be convicted but* "*on the evidence of two credible witneſſes*," there was but *one* witneſs (for ſince his credibility was not queſtioned at the trial, it muſt be admitted here, but how far it was unqueſtionable the reader is left to determine) to criminate the defendant on the charge for which he was tried, and that was *Edward Lloyd*, for Mr. Davis ſwore, "*he knew* "*nothing of it*; *all that he knew of the matter was from* Lloyd "~~his~~ *information*"; and the evidence of Mr. Gibbs only goes to the act of the defendant's running, and being taken into cuſtody, which was acknowledged by the defendant in his defence; and ſurely he might have found a much better plea than the firſt was, had it not proceeded from what he has therein ſtated; and Mrs. Lloyd poſitively

ſwore

vore that ſhe was not in the ſhop, but gone over the ay at the time the property is ſworn to have been taken; that the whole of the defendant's criminality reſts pon the *ſingle teſtimony of Mr. Lloyd.* Mrs. Lloyd indeed ined her huſband in the account of the defendant's eighing the tea, and the ſtory of the pen-knife, the rſt of which is, likewiſe, ſtated by the defendant in his efence; and admitting the latter to be ſtrictly true, it as been ſhewn it does not, even from their own evidence eſpecting it, prove any criminality; and when the whole f their evidence, either ſeparately or compared with ach other, is ſeen to abound with glaring contradictions nd inconſiſtencies, it follows, of courſe, that this may ot only be juſtly deemed a *doubtful* caſe, and one of hoſe in which *character* is a very *material* point, but it ives riſe to a very natural inference.

Lloyd was the truſtee of Mrs. or Miſs Lawrence, by er depoſiting the bank note in his cuſtody; ſo that had he Jury conſidered this point of evidence maturely, *a reach of truſt* in Lloyd, muſt have militated in their inds againſt the charge; and their ſuſpicions muſt have een materially ſtrengthened, as well as the teſtimony of Lloyd and his wife conſiderably weakened, had they taken hoſe contradictions, and the defendant's character, into conſideration; ſince againſt which (as ſhould have been demanded, or no perſon, if charges in *general terms* are to be admitted, can be ſafe) no *particular* charge of all hat was ſworn againſt him by Hayward and Dunnage, nd although what they ſwore ſo materially injured him, was brought to invalidate the teſtimony that was given by the number of witneſſes examined in his favour.

This being the true light in which the charge againſt the defendant ſtood before the Court, and his character being unimpeached by any thing ſworn againſt him by Hayward and Dunnage, but on the contrary the concurrent teſtimony of ſo many reſpectable perſons, (all agreeing

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agreeing in his being unexceptionably honeſt) added to the extraordinary circumſtances attending the charge, ſhould naturally have raiſed a *doubt* in the breaſts of the Jury, and inclined their deciſion to the ſide of mercy. But if (as in every ſpecies of criminal proſecution ſhould be the caſe, or it is in the power of the wicked and malicious to do ſuch miſchief as nature revolts at) the character of the *accuſer* had been weighed in the ſcale of Juſtice and Impartiality, againſt the *accuſed*, by calling thoſe witneſſes (who were in Court, and the propriety of calling whom the defendant ſubmitted to his Counſel, they being in poſſeſſion of their names, and the facts they could prove in their brief) to prove what they have ſet forth, in one of the annexed certificates, what a dangerous man Lloyd was, it would indubitably have acquitted the defendant, by *totally* invalidating the teſtimony of the *principal* evidence againſt him. And why they were not called, remains to be explained by his Counſel, ſince it cannot be ſaid that they were in any reſpect inadmiſſible; for what the defendant has ſaid towards the concluſion of the foregoing Appeal, about entering on his own defence, having precluded him from the benefit of ſuch evidence, appears by a recent inſtance (previous to which the ſaid Appeal was written, and which did not occur to the defendant at the time it was printed) to be erroneous. The inſtance he alludes to, is the remarkable trial of Mr. Maſkall, in which it is well known, although he entered on his own defence, the character of the *principal* evidence for the proſecution *(Ingram)* being inveſtigated, and proved to be bad, acquitted the priſoner.

Thus the defendant preſumes it has been ſhewn, that he did not ſuffer from the virulent ſwearing of Lloyd and his wife only, but from other cauſes, viz. neither his Counſel, the Court, nor Jury, having obſerved the contradictions that were ſo glaring throughout their evi-

dence.

nce; the miſconception of the Judge, already mentioned, which (as it paſſed unnoticed by any one at the me) he of courſe transferred to the Jury in his charge: he evidence on the part of the proſecution, being ffered to be examined *after* he had entered on his efence; his being deprived of thoſe witneſſes abovementioned, whoſe teſtimony might ſo *materially* have rved him; in admitting the extraneous evidence of ayward and Dunnage, and in rejecting that that could ave elucidated it.

It will alſo be thought very extraordinary, that Mrs. Miſs Lawrence was never once called for by the ourt or Counſel, or that ſhe was not deſired by the roſecutors to attend, to ſubſtantiate the fact of the ote being left in cuſtody, as depoſed. The defendant umbly conceives it to be uſual in caſes where property left in the cuſtody of another, and ſuch property is olen, for the perſon who depoſited ſuch property to tend on the trial of the perſon accuſed of ſtealing it. his note hath never yet come to light, nor ever been reſented for payment at the Bank. The public is et in the dark, who is the loſer by this pretended theft; hether the loſs fell upon Mr. Davis, whoſe property he note was laid to be in the indictment, though he ever ſaw it or knew any thing about it; whether on dward Lloyd, or on the real proprietor Mrs. Lawrence, or to have let her ſuſtain the loſs, when he and his wife hough it is impoſſible from their evidence to ſay which) ad taken charge of it, would have been totally contrary to his *exalted ideas* of *Juſtice*. And it is equally o be remarked, ſince it clearly appears from their own vidence, that Mrs. Lloyd's ounce of tea cuſtomer could ot be an accomplice of the defendant's; and as he proiſed to be an evidence againſt the defendant, that he id not alſo attend on the trial, ſince his evidence would ave been ſo very material, as it muſt (he being in the

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ſhop at the time it was alledged to have been ſtolen have gone to the *actual taking of the property*, and in that caſe would have ſubſtantiated what *now* reſts upon the teſtimony of Lloyd *only*.

The reader will perceive, in addition to what has been already ſhewn, that if any ſatisfaction had been given on thoſe points, the credibility of Mr. Lloyd's evidence would have been reſcued from that degree of ſuſpicion that is now, for want thereof, juſtly annexed to it.

The defendant now ſubmits his caſe to his readers, and doubts not but every impartial and unprejudiced one from this ſtate of it (in which knowing as he does the parties he has to deal with, every thing has been avoided that could not be built on the premiſes of the trial, of which has not to ſupport it what would be deemed legal evidence in any Court of Juſtice) will readily acquit him and be convinced that he was offered up as a ſacrifice on the altar of malevolence, by the hands of inadvertency and indiſcrimination. It may be ſaid that as he has been relieved by means of thoſe who ſaw the matter in its *true light*, preventing the corporal puniſhment, and from impriſonment, he has not been ſo materially injured and is now where he was; but, alas! what perſon can paint, unleſs they had experienced it, the anxiety, ſhame and confuſion, that innocence muſt feel, at even the accuſation of an atrocious crime? How muſt thoſe feelings have been heightened, when dragged to a noiſome goal, pent up with the daring robber, and blood-ſtained murderer, brought to a public trial in the face of the world, and unexpectedly convicted of a crime, of which in whatever light this appeal may be conceived, *his conſcience acquits him*; *and of which, he here appeals to Almighty God, to whom the ſecrets of all hearts are known, he was totally guiltleſs?* When laying under a ſhameful ſentence, hoping in his Majeſty's clemency, yet doubting

e ſtrength of his intereſt to obtain it. And can any erſon ſay, an impriſonment from the 20th of Novem-r, to the 29th of May, above ſix months, is no ſuf-ring, though ſhort indeed of what the proſecution med at, and to which he was firſt ſentenced. To ſay thing of the expence incurred on this occaſion, ſurely hen the reader reflects on all theſe things, and that they ere the effects of malice, fraud, and falſhood, they ill at the ſame time they commiſerate the ſufferer, feel honeſt indignation riſing in their breaſts, againſt the icked contrivers of his calamities; and wiſh that ſtrict uſtice may ſoon overtake thoſe who have made law the ſtrument of their malignity.

One thing only remains to be noticed, and that is to revent even the ſhadow of a cavil, on a ſeeming con-adiction.——One of the gentlemen who appeared to e defendant's character, is ſtiled (page 3) in the caſe, ndrew Allen, Eſq. late Attorney-General of the rovince of Pennſylvania; and in the trial he is made ſay, "I am an American of Pennſylvania, belonging to the Attorney-General." The laſt of theſe, how-ver, is a miſtake in the writer's notes, or in the print-ng, as well as the date of 1761, which ſhould have been 764, that being the time when that gentleman's father ook the defendant with him to Philadelphia, where ſoon fter their arrival, this gentleman who appeared on the rial, was appointed Attorney-General, in which poſt he ontinued until the declaration by the Americans of their ndependance.

FINIS.